

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 - - -

5
6 IN RE: NATIONAL : HON. DAN A.
7 PRESCRIPTION OPIATE : POLSTER
8 LITIGATION :
9 :
10 APPLIES TO ALL CASES : NO.
11 : 1:17-MD-2804
12 :
13 :

14 - HIGHLY CONFIDENTIAL -

15 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

16 - - -

17 October 25, 2018

18 - - -

19 Videotaped deposition of
20 EDWARD HAZEWSKI, taken pursuant to
21 notice, was held at the law offices of
22 Reed Smith, LLP, 1717 Arch Street,
23 Philadelphia, Pennsylvania, beginning at
24 9:36 a.m., on the above date, before
25 Michelle L. Gray, a Registered
26 Professional Reporter, Certified
27 Shorthand Reporter, Certified Realtime
28 Reporter, and Notary Public.

29 - - -

30 GOLKOW LITIGATION SERVICES
31 877.370.3377 ph | 917.591.5672 fax
32 deps@golkow.com

Page 2	Page 4
<p>1 APPEARANCES:</p> <p>2</p> <p>3 BARON & BUDD, P.C.</p> <p>4 BY: MARK P. PIFKO, ESQ.</p> <p>5 BY: STERLING CLUFF, ESQ.</p> <p>6 Encino Plaza</p> <p>7 15910 Ventura Boulevard, Suite 1600</p> <p>8 Encino, California 91436</p> <p>9 (818) 839-2333</p> <p>10 Mpifko@baronbudd.com</p> <p>11 - and -</p> <p>12 BARON & BUDD, P.C.</p> <p>13 BY: WILLIAM G. POWERS, ESQ.</p> <p>14 600 New Hampshire Avenue, NW</p> <p>15 The Watergate, Suite 10-A</p> <p>16 Washington, D.C. 20037</p> <p>17 (202) 333-4562</p> <p>18 Wpowers@baronbudd.com</p> <p>19 - and -</p> <p>20 BLASINGAME, BURCH, GARRARD,</p> <p>21 ASHLEY, P.C.</p> <p>22 BY: ALEXANDRIA HUGHES, ESQ.</p> <p>23 440 College Avenue, Suite 320</p> <p>24 Athens, Georgia 30601</p> <p>(706) 354-4000</p> <p>Ahughes@bbga.com</p> <p>Representing the Plaintiffs</p>	<p>1 APPEARANCES: (Cont'd.)</p> <p>2</p> <p>3 WILLIAMS & CONNOLLY, LLP</p> <p>4 BY: MIRANDA PETERSEN, ESQ.</p> <p>5 725 12th Street, NW</p> <p>6 Washington, D.C. 20005</p> <p>7 (202) 434-5148</p> <p>8 mpetersen@wc.com</p> <p>9 Representing the Defendant, Cardinal</p> <p>10 Health</p> <p>11</p> <p>12 TELEPHONIC APPEARANCES:</p> <p>13</p> <p>14 BLASINGAME, BURCH, GARRARD,</p> <p>15 ASHLEY, P.C.</p> <p>16 BY: THOMAS HOLLINGSWORTH, III, ESQ.</p> <p>17 440 College Avenue, Suite 320</p> <p>18 Athens, Georgia 30601</p> <p>19 (706) 354-4000</p> <p>20 thollingsworth@bbga.com</p> <p>21 Representing the Plaintiffs</p> <p>22</p> <p>23 MARCUS & SHAPIRA, LLP</p> <p>24 BY: ELLY HELLER-TOIG, ESQ.</p> <p>One Oxford Centre, 35th Floor</p> <p>Pittsburgh, Pennsylvania 15219</p> <p>(412) 338-4683</p> <p>Ehtoid@marcus-shapira.com</p> <p>Representing the Defendant, HBC</p> <p>Service Company</p> <p>KIRKLAND & ELLIS, LLP</p> <p>BY: ZACHARY A. CIULLO, ESQ.</p> <p>300 North LaSalle Street</p> <p>Chicago, Illinois 60654</p> <p>(312) 862-2595</p> <p>Zac.ciullo@kirkland.com</p> <p>Representing the Defendant, Allergan</p> <p>Pharmaceuticals</p>
Page 3	Page 5
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<p>1 APPEARANCES: (Cont'd.)</p> <p>2</p> <p>3 ALSO PRESENT:</p> <p>4 VIDEOTAPE TECHNICIAN:</p> <p>5 Dan Lawlor</p> <p>6</p> <p>7 LITIGATION TECHNICIAN:</p> <p>8 Zach Hone</p> <p>9 ALSO PRESENT:</p> <p>10 Elizabeth Campbell, Esq.</p> <p>11 (AmerisourceBergen)</p> <p>12</p> <p>13 - - -</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1 E X H I B I T S (Cont'd.)</p> <p>2</p> <p>3</p> <p>4</p> <p>5 NO. DESCRIPTION PAGE</p> <p>6 ABDC-Hazewski-4 Suspicious 94</p> <p>7 Order Monitoring</p> <p>8 Slide Deck</p> <p>9 Partnership Meeting</p> <p>10 10/22/12</p> <p>11 ALLERGAN_MDL_00381552</p> <p>12 -66</p> <p>13 ABDC-Hazewski-5 E-mail Thread 118</p> <p>14 1/30/13</p> <p>15 Subject, Question</p> <p>16 On OMP</p> <p>17 ABDCMDL00285348-50</p> <p>18 ABDC-Hazewski-6 E-mail, 4/8/14 123</p> <p>19 Subject, Data</p> <p>20 ABDCMDL00282490</p> <p>21 ABDC-Hazewski-7 Spreadsheet 123</p> <p>22 DC, DEA #, Customer</p> <p>23 Name</p> <p>24 ABDCMDL00282491</p> <p>ABDC-Hazewski-8 E-mail Thread 127</p> <p>3/28/17</p> <p>Subject, Walgreens</p> <p>C2 Playbook</p> <p>ABDCMDL00280818-22</p> <p>ABDC-Hazewski-9 US DOJ of 146</p> <p>Florida Walgreens</p> <p>Agrees to</p> <p>Pay a Record</p> <p>Settlement</p>
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<p>1</p> <p>2 I N D E X</p> <p>3</p> <p>4</p> <p>5 Testimony of: EDWARD HAZEWSKI</p> <p>6 By Mr. Pifko 14</p> <p>7</p> <p>8</p> <p>9</p> <p>10 - - -</p> <p>11 E X H I B I T S</p> <p>12</p> <p>13 - - -</p> <p>14 NO. DESCRIPTION PAGE</p> <p>15 ABDC-Hazewski-1 E-mail, 3/16/12 49</p> <p>16 Subject, Draft</p> <p>17 Diversion Training</p> <p>18 ABDCMDL00265457</p> <p>19 ABDC-Hazewski-2 Slide Deck 49</p> <p>20 Prescription</p> <p>21 Drug Diversion</p> <p>22 Recognizing the</p> <p>23 Red Flags</p> <p>24 ABDC-Hazewski-3 E-mail Thread 90</p> <p>4/16/12</p> <p>Subject, Draft</p> <p>Diversion Training</p> <p>ABDCMDL00268888</p>	<p>1 E X H I B I T S (Cont'd.)</p> <p>2</p> <p>3</p> <p>4</p> <p>5 NO. DESCRIPTION PAGE</p> <p>6 ABDC-Hazewski-10 E-mail Thread 160</p> <p>7 3/27/13</p> <p>8 Subject, C2 Hyper-</p> <p>9 Accelerated Perrysburg</p> <p>10 ABDCMDL00278509-13</p> <p>11 ABDC-Hazewski-11 Letter, 2/11/13 199</p> <p>12 To Hazewski from</p> <p>13 Napoli</p> <p>14 TEVA_MDL_A_01037633-34</p> <p>15 ABDC-Hazewski-12 E-mail Thread 212</p> <p>16 3/30/11</p> <p>17 Subject, OMP</p> <p>18 ABDCMDL00267230-32</p> <p>19 ABDC-Hazewski-13 E-mail Thread 215</p> <p>20 12/31/10</p> <p>21 Subject, OMP Issues</p> <p>22 ABDCMDL00267013-14</p> <p>23 ABDC-Hazewski-14 E-mail Thread 222</p> <p>24 6/6/13</p> <p>Subject, OMP Research</p> <p>ABDCMDL00279037-39</p> <p>ABDC-Hazewski-15 E-mail Thread 235</p> <p>11/8/13</p> <p>Subject, Diversion</p> <p>Control Program</p> <p>ABDCMDL00279103</p> <p>ABDC-Hazewski-16 Diversion 235</p> <p>Control Program</p> <p>ABDCMDL00279104-107</p>

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2	E X H I B I T S
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4	
5	NO. DESCRIPTION PAGE
6	ABDC-Hazewski-17 E-mail Thread 256
7	Subject, Due
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9	ABDCMDL00145881
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12	9/13/12
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14	Monitoring
15	Program - Setting The
16	Record Straight
17	ABDCMDL00266845
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19	ABDC-Hazewski-19 Order Monitoring 261
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21	Record Straight
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2	P R E V I O U S L Y M A R K E D
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6	NO. DESCRIPTION
7	Zimmerman-9 Regulatory Compliance
8	Update, 8/10/17
9	Slide Deck
10	ABDCMDL00273425-25
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2	D E P O S I T I O N S U P P O R T I N D E X
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5	Direction to Witness Not to Answer
6	PAGE LINE
7	None.
8	
9	Request for Production of Documents
10	PAGE LINE
11	None.
12	
13	Stipulations
14	PAGE LINE
15	None.
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2	
3	THE VIDEOGRAPHER: We are
4	now on the record. My name is Dan
5	Lawlor. I'm a videographer with
6	Golkow Litigation Services.
7	Today's date is
8	October 25th, 2018, and the time
9	is 9:36 a.m.
10	This video deposition is
11	being held in Philadelphia,
12	Pennsylvania, in the matter of
13	National Prescription Opiate
14	Litigation, MDL No. 2804.
15	The deponent is Edward
16	Hazewski.
17	Counsel will be noted on the
18	stenographic record.
19	The court reporter is
20	Michelle Gray and will now swear
21	in the witness.
22	- - -
23	... EDWARD HAZEWSKI, having
24	been first duly sworn, was
	examined and testified as follows:

<p style="text-align: right;">Page 14</p> <p>1 - - -</p> <p>2 EXAMINATION</p> <p>3 - - -</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Good morning.</p> <p>6 A. Good morning.</p> <p>7 Q. My name is Mark Pifko, I</p> <p>8 represent the plaintiffs in the case that</p> <p>9 we're here for, and I'm going to be</p> <p>10 asking you some questions today.</p> <p>11 Let's start by -- can you</p> <p>12 please state and spell your name for the</p> <p>13 record.</p> <p>14 A. Yes. First name is Edward.</p> <p>15 Last name Hazewski, H-A-Z-E-W-S-K-I.</p> <p>16 Q. Have you ever had your</p> <p>17 deposition taken before?</p> <p>18 A. I believe I have.</p> <p>19 Q. About how long ago?</p> <p>20 A. It would have been well over</p> <p>21 25 years ago.</p> <p>22 Q. Okay. Was that a deposition</p> <p>23 taken in connection with a professional</p> <p>24 issue or personal issue?</p>	<p style="text-align: right;">Page 16</p> <p>1 I assume that in preparing</p> <p>2 for this deposition, you did that, but I</p> <p>3 always want to make sure that we are on</p> <p>4 the same page here.</p> <p>5 First, you see that there's</p> <p>6 a court reporter here, so we need to make</p> <p>7 sure that we are not talking over each</p> <p>8 other. That someone else in the room is</p> <p>9 talking, that, you know, we are trying</p> <p>10 not to all speak at the same time. Okay?</p> <p>11 A. Understood.</p> <p>12 Q. Another thing is we need to</p> <p>13 give audible responses. If you just nod</p> <p>14 your head or shrug your shoulders, we</p> <p>15 can't take that down for the record. So</p> <p>16 please make sure that you give a</p> <p>17 verbal -- verbal, audible response to any</p> <p>18 question. Understood?</p> <p>19 A. Understood.</p> <p>20 Q. And then please try to say</p> <p>21 "yes" or "no" rather than mm-hmm or</p> <p>22 unh-unh, because when you see it in</p> <p>23 writing, you can't really tell the</p> <p>24 difference between a yes and a no, if</p>
<p style="text-align: right;">Page 15</p> <p>1 A. Professional.</p> <p>2 Q. Okay. What was the nature</p> <p>3 of the deposition?</p> <p>4 A. I don't recall the</p> <p>5 specifics, but it was during my law</p> <p>6 enforcement career.</p> <p>7 Q. Okay. Where were you a</p> <p>8 law enforcement officer?</p> <p>9 A. I was a law enforcement</p> <p>10 officer in Wilmington, Delaware. And for</p> <p>11 the State of Delaware, the Office of the</p> <p>12 Attorney General.</p> <p>13 Q. Okay. When did you serve in</p> <p>14 that role?</p> <p>15 A. The Attorney General's?</p> <p>16 Q. Well, the question --</p> <p>17 A. My police career, 1974</p> <p>18 through 1994. Then five additional years</p> <p>19 with the Attorney General's office.</p> <p>20 Somewhere '96 through 2000. Roughly.</p> <p>21 Q. Okay. Well, since it's been</p> <p>22 20, 25 years maybe since you had your</p> <p>23 deposition taken, let's just go over some</p> <p>24 of the ground rules.</p>	<p style="text-align: right;">Page 17</p> <p>1 it's mm-hmm or unh-unh. Okay?</p> <p>2 A. Understood.</p> <p>3 Q. I'm going to be asking you</p> <p>4 some questions as I said. If you don't</p> <p>5 understand your -- my questions, please</p> <p>6 let me know and I'll try to rephrase it.</p> <p>7 Okay?</p> <p>8 A. Okay.</p> <p>9 Q. From time to time your</p> <p>10 counsel might assert an objection, but</p> <p>11 unless he instructs you not to answer,</p> <p>12 I'm still entitled to a response. Okay?</p> <p>13 A. Okay.</p> <p>14 Q. You understand that the</p> <p>15 court reporter just administered the oath</p> <p>16 to you. Yes?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And that means that</p> <p>19 if you are untruthful or intentionally</p> <p>20 misleading or dishonest, you can be</p> <p>21 subject to penalties from the court. Do</p> <p>22 you understand that?</p> <p>23 A. Understood.</p> <p>24 Q. Okay. Is there any reason</p>

<p style="text-align: right;">Page 18</p> <p>1 why you think this deposition should not 2 proceed today? 3 A. No. 4 Q. Are you taking any 5 medications or undergoing any treatment 6 that would impair your ability to tell 7 the truth? 8 A. No. 9 Q. Are you -- same thing, are 10 you taking the medications or undergoing 11 the treatment that would impair your 12 memory? 13 A. No. 14 Q. Okay. From time to time, 15 we're going to obviously be talking about 16 things that happened in the past. I'm 17 entitled to your best recollection of 18 those events. Okay? 19 A. Okay. 20 Q. At the same time, I don't 21 want you to guess. So if you have a 22 rough estimate or a memory of something, 23 please provide it to the best you're able 24 to do so. But if -- if you just simply</p>	<p style="text-align: right;">Page 20</p> <p>1 A. Roughly a year. 2 Q. And then what -- what was 3 your next role? 4 A. My next role was as manager 5 of the diversion control program. 6 Q. And sorry, when you started 7 at the company as a corporate 8 investigator, who did you report to? 9 A. My best recollection is 10 Bruce Gundy was my direct report -- or I 11 reported directly to him. 12 Q. Is Bruce Gundy still with 13 the company? 14 A. Yes, he is. 15 Q. What role is he in now? 16 A. He is director diversion 17 control and security, in charge of 18 investigations. 19 Q. So you said you are director 20 of diversion control. What is your area 21 of focus currently? 22 A. Currently it's special 23 projects as identified by David May. 24 Q. How long have you been in</p>
<p style="text-align: right;">Page 19</p> <p>1 don't know, I don't want you to make up 2 an answer. Okay? 3 A. Okay. 4 Q. So you are currently 5 employed by AmerisourceBergen, correct? 6 A. Correct. 7 Q. What's your current title? 8 A. Director diversion control 9 and security. 10 Q. Who do you report to? 11 A. David May. 12 Q. Where are you physically 13 located? Here in Pennsylvania? 14 A. Yes. In Valley Forge, 15 Pennsylvania. 16 Q. When did you first become 17 employed by AmerisourceBergen? 18 A. June of 2007. 19 Q. What was the position that 20 you took when you were first hired? 21 A. I believe the title was 22 corporate investigator. 23 Q. How long did you hold that 24 position?</p>	<p style="text-align: right;">Page 21</p> <p>1 that role? 2 A. Probably since March of this 3 year. 4 Q. Okay. Going back. So 5 corporate investigator, and then manager 6 of diversion and control. Who did you 7 report to when you were manager of 8 diversion control? 9 A. Chris Zimmerman. 10 Q. How long were you in that 11 position? 12 A. From 2008 until 2014. I 13 can't be more specific in terms of -- 14 Q. Okay. In 2014, what role 15 did you move into? 16 A. I -- I moved into the role 17 as -- with corporate investigations, 18 working along with Bruce Gundy. 19 Q. And how long were you in 20 that role? 21 A. I would say approximately 22 two years. 23 Q. And then where did you move 24 to?</p>

<p style="text-align: right;">Page 22</p> <p>1 A. I stayed within the 2 corporate security structure, but I 3 became director of -- in charge of 4 physical security. 5 Q. How long were you in that 6 role? 7 A. Until I assumed my current 8 position. 9 Q. Okay. Who did you report to 10 when you were director of physical 11 security? 12 A. David May. 13 Q. During the period when you 14 were manager of diversion control, you 15 said that you reported to Chris 16 Zimmerman. Do you recall saying that? 17 A. Yes. 18 Q. Was there also a period when 19 you reported to Steve Mays? 20 A. I worked closely with Steve. 21 I don't recall directly reporting to 22 Steve. 23 Q. Okay. When you joined the 24 company in June 2007, did they inform you</p>	<p style="text-align: right;">Page 24</p> <p>1 this question or any question that 2 involve information that was 3 transmitted to you by an attorney, 4 that's privileged and you don't 5 have to include that in your 6 answer and you shouldn't. And I 7 would instruct you not to. 8 But go ahead. 9 THE WITNESS: I don't recall 10 a circumstance where I was -- sat 11 down and someone actually 12 explained to me the -- the issues 13 that were going on with the Drug 14 Enforcement Administration at the 15 time. 16 I'm sure there was 17 conversation between myself, my 18 peers and our lead team, but I 19 don't recall any specifics of what 20 was said. 21 BY MR. PIFKO: 22 Q. So you just had a general 23 awareness when you joined the company 24 that that -- that enforcement action was</p>
<p style="text-align: right;">Page 23</p> <p>1 that there was -- that the company had 2 just entered into an agreement with the 3 United States Department of Justice 4 through the drug administration -- Drug 5 Enforcement Administration? 6 MR. NICHOLAS: Object to the 7 form. You can answer. 8 THE WITNESS: I was aware of 9 the company's involvement with -- 10 with the government on -- on that 11 issue. 12 BY MR. PIFKO: 13 Q. What did they tell you about 14 that issue when you joined the company? 15 MR. NICHOLAS: Object to the 16 form. 17 BY MR. PIFKO: 18 Q. You can answer unless he -- 19 he'll tell you very clearly if he doesn't 20 want you to answer. 21 MR. NICHOLAS: On this, I 22 will -- the only thing that I'd 23 add is, to the extent that there's 24 any communications in answer to</p>	<p style="text-align: right;">Page 25</p> <p>1 out there and people were dealing with 2 it, is that correct? 3 MR. NICHOLAS: Object to the 4 form. 5 THE WITNESS: That would be 6 correct. 7 BY MR. PIFKO: 8 Q. So you joined as an 9 investigator. And you were in the CSRA 10 division, correct? 11 A. Correct. 12 Q. What -- what was your job as 13 an investigator at that time? What were 14 your duties? 15 A. Well, I would be assigned 16 cases by Bruce Gundy, obviously to 17 investigate. It ran the gamut. There 18 was no specific area that -- that I 19 concentrated on. It was, again, whatever 20 required some sort of investigative work, 21 it would be assigned. 22 Q. You're -- are you familiar 23 with the order monitoring program that 24 was implemented in 2007?</p>

<p style="text-align: right;">Page 26</p> <p>1 A. Yes.</p> <p>2 Q. Are you familiar with the</p> <p>3 fact that certain orders from a</p> <p>4 distribution center could be sent to the</p> <p>5 CSRA for investigation?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Were you involved in</p> <p>8 reviewing orders that were submitted from</p> <p>9 the distribution centers?</p> <p>10 A. Can you specify what time</p> <p>11 period you're talking about?</p> <p>12 Q. When you first joined the</p> <p>13 company.</p> <p>14 A. I was aware of the process</p> <p>15 of orders having to be reviewed. I don't</p> <p>16 recall specifically reviewing orders</p> <p>17 myself, but I was aware of the process.</p> <p>18 Q. Did you work with anybody</p> <p>19 whose job it was to review the orders at</p> <p>20 that time?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Who were those</p> <p>23 people?</p> <p>24 A. That would have been Bruce</p>	<p style="text-align: right;">Page 28</p> <p>1 issues?</p> <p>2 A. That would be a guess. I</p> <p>3 really have no idea what percentage</p> <p>4 constituted those.</p> <p>5 Q. Okay. Did you work on any</p> <p>6 investigations that concerned diversion</p> <p>7 issues at that time when you were an</p> <p>8 investigator when you first joined the</p> <p>9 company?</p> <p>10 A. I don't recall any</p> <p>11 investigations that involved potential</p> <p>12 diversion other than the report, or the</p> <p>13 order review process.</p> <p>14 Q. Okay. And you did find</p> <p>15 yourself involved with the order review</p> <p>16 process during that time?</p> <p>17 MR. NICHOLAS: Objection.</p> <p>18 Asked and answered.</p> <p>19 THE WITNESS: Again, it's</p> <p>20 likely that I reviewed orders</p> <p>21 during that period of time. I</p> <p>22 just have no specific</p> <p>23 recollection.</p> <p>24 BY MR. PIFKO:</p>
<p style="text-align: right;">Page 27</p> <p>1 Gundy and Steve Mays.</p> <p>2 Q. Anyone else?</p> <p>3 A. No one else that I can</p> <p>4 recall.</p> <p>5 Q. So at that time, that first</p> <p>6 year from June 2007 to approximately</p> <p>7 June 2008, did you ever review orders</p> <p>8 that had been identified from the</p> <p>9 distribution center as needing</p> <p>10 investigation?</p> <p>11 A. I don't recall specifically</p> <p>12 doing that, but it's likely that I did.</p> <p>13 Q. I want to understand the</p> <p>14 investigation process for doing that.</p> <p>15 So, okay, you said that you would be</p> <p>16 tasked by Bruce Gundy with conducting a</p> <p>17 variety of investigations, correct?</p> <p>18 A. Correct.</p> <p>19 Q. Did all of those</p> <p>20 investigations concern potential</p> <p>21 diversion issues?</p> <p>22 A. No.</p> <p>23 Q. Okay. About what percentage</p> <p>24 of the investigations concerned diversion</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. Okay. Do you have a</p> <p>2 recollection about the process that one</p> <p>3 would use to review and investigate an</p> <p>4 order?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Can you tell me what</p> <p>7 the process was?</p> <p>8 A. Well, it would be a review</p> <p>9 of the actual order. The product</p> <p>10 being -- the product in question that</p> <p>11 constitutes the order, looking at a</p> <p>12 purchase history of the customer. Trying</p> <p>13 to determine if the order is unusual in</p> <p>14 some fashion that would have caused it to</p> <p>15 trigger a further investigation.</p> <p>16 Q. Okay. So if -- do you</p> <p>17 remember the potential outcomes of</p> <p>18 investigation?</p> <p>19 So you review an order.</p> <p>20 You're looking for the things that you</p> <p>21 just described. If you -- if you don't</p> <p>22 see any of that, what happens?</p> <p>23 A. Well, without looking at a</p> <p>24 specific order, I would just have to say</p>

<p style="text-align: right;">Page 30</p> <p>1 that if there are no indicators of 2 potential diversion, then the order would 3 be released. 4 Q. Okay. And it would be 5 shipped? 6 A. Correct. 7 Q. Okay. And then if you did 8 find some potential indicators of 9 diversion, then what would you do? 10 A. The order would be canceled 11 and not shipped. 12 Q. Okay. And then you 13 mentioned that there could be further 14 investigation; is that correct? 15 A. On a specific order? 16 Q. Yeah. Or is that it? 17 A. No. What I just described 18 constitutes the process. 19 Q. Okay. What factors would 20 you look at in the ordering history or 21 any information about the customer to 22 determine if you felt, in your words, the 23 order was unusual? 24 A. We would look for -- or I</p>	<p style="text-align: right;">Page 32</p> <p>1 appeared to be more frequent, what kind 2 of questions would you ask the 3 pharmacist? 4 MR. NICHOLAS: Object to the 5 form. 6 THE WITNESS: I would ask 7 why and have them provide an 8 explanation as to the reason for 9 those factors. 10 BY MR. PIFKO: 11 Q. Can you name some things 12 that, based on your experience, a 13 pharmacist might say that would alleviate 14 any concerns that you would have had? 15 MR. NICHOLAS: Object to the 16 form. 17 THE WITNESS: I don't know 18 that they would alleviate any 19 concerns, but I would -- a 20 potential response to a question 21 like that would be -- it could 22 deal with pricing issues. In 23 other words, they are trying to 24 purchase prior to what they</p>
<p style="text-align: right;">Page 31</p> <p>1 would look for the quantity being ordered 2 versus their historical usage, whether 3 the order fits a pattern that the 4 customer usually ordered. Is the order 5 more frequent than normally seen with 6 this particular customer? If necessary, 7 a call to the customer, meaning usually 8 the pharmacist in charge, to clear up any 9 issues that may have arisen through this 10 review and to get some clarity from the 11 customer as to why we're even looking at 12 this order. 13 Q. What kind of questions would 14 you ask the pharmacist in charge to 15 figure out answers to those questions? 16 MR. NICHOLAS: Object to the 17 form. 18 THE WITNESS: I would need 19 the specifics of the order to be 20 able to frame questions that would 21 be asked. 22 BY MR. PIFKO: 23 Q. If you saw an order that was 24 unusually large for that customer or</p>	<p style="text-align: right;">Page 33</p> <p>1 anticipate might be a price rise. 2 I know there's other factors 3 that are escaping me at the 4 moment. But there's any number of 5 potential responses that would 6 either, A, alleviate my concerns, 7 or fail -- fail to do so. 8 BY MR. PIFKO: 9 Q. From the perspective of 10 looking at the size of the order, how 11 would you judge whether it was an 12 unusually sized order? 13 MR. NICHOLAS: Object to the 14 form. 15 THE WITNESS: By comparing 16 it to their historical purchases. 17 BY MR. PIFKO: 18 Q. What data would you look at? 19 Where would you obtain historical 20 purchasing data? 21 A. Through our -- through our 22 system that was being used at the time. 23 I can't explain the computer facets of 24 that -- of that review, but we had access</p>

<p style="text-align: right;">Page 34</p> <p>1 to the data.</p> <p>2 Q. Okay. So you would pull up</p> <p>3 something on the computer that would</p> <p>4 provide you with the customer's</p> <p>5 purchasing history?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Have you heard of the</p> <p>8 Star system?</p> <p>9 A. I can't say that I have, no.</p> <p>10 Q. Have you heard of the SAP</p> <p>11 system?</p> <p>12 A. Yes.</p> <p>13 Q. The systems that -- is SAP</p> <p>14 system a system that AmerisourceBergen</p> <p>15 used?</p> <p>16 A. It was instituted at some</p> <p>17 point. But I don't know the time frame</p> <p>18 of that.</p> <p>19 Q. Okay. It was instituted</p> <p>20 after you started at the company,</p> <p>21 correct?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. And you don't</p> <p>24 remember what the name was of the system</p>	<p style="text-align: right;">Page 36</p> <p>1 as part of your investigation, correct?</p> <p>2 A. Correct.</p> <p>3 Q. And you're looking at the</p> <p>4 customer's order history over the</p> <p>5 previous year, correct?</p> <p>6 A. Correct.</p> <p>7 Q. So what would constitute an</p> <p>8 unusually large order when you're</p> <p>9 conducting an investigation like that?</p> <p>10 MR. NICHOLAS: Object to the</p> <p>11 form. Go ahead.</p> <p>12 THE WITNESS: There's not a</p> <p>13 hard and fast rule. We would just</p> <p>14 look at the totality of the</p> <p>15 information generated and make a</p> <p>16 determination.</p> <p>17 I can't say that for every</p> <p>18 order there was a specific</p> <p>19 percentage or quantity that would</p> <p>20 satisfy that information.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. Did you receive training on</p> <p>23 how to conduct these investigations?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 35</p> <p>1 prior to that?</p> <p>2 A. No. All I know is I plugged</p> <p>3 in what I wanted to find, and it</p> <p>4 appeared.</p> <p>5 Q. How -- when you're looking</p> <p>6 at a customer's order history, how far</p> <p>7 back would you look?</p> <p>8 MR. NICHOLAS: Object to the</p> <p>9 form.</p> <p>10 THE WITNESS: A year.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. And when you're looking</p> <p>13 at -- to see if the size is unusual,</p> <p>14 how -- how much over the prior years'</p> <p>15 orders would constitute something that is</p> <p>16 unusually large?</p> <p>17 MR. NICHOLAS: Object to the</p> <p>18 form. Very unspecific question.</p> <p>19 Go ahead.</p> <p>20 THE WITNESS: Can you repeat</p> <p>21 the question?</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. Yeah. So you're looking to</p> <p>24 determine if an order is unusually large</p>	<p style="text-align: right;">Page 37</p> <p>1 Q. Who provided that training</p> <p>2 to you?</p> <p>3 A. Primarily Bruce Gundy and</p> <p>4 Steve Mays.</p> <p>5 Q. Was that -- was there any</p> <p>6 written documentation that was provided</p> <p>7 to you in your training?</p> <p>8 A. I don't recall any specific</p> <p>9 documents.</p> <p>10 Q. Was it like a formal</p> <p>11 training session where you sit in a room,</p> <p>12 someone gives you a presentation, or was</p> <p>13 it more like on-the-job, you just kind of</p> <p>14 start sitting down and they show you what</p> <p>15 to do?</p> <p>16 A. I would say it was a</p> <p>17 combination of both.</p> <p>18 Q. Prior to joining</p> <p>19 AmerisourceBergen, did you have any</p> <p>20 familiarity with the Controlled</p> <p>21 Substances Act?</p> <p>22 A. I did not.</p> <p>23 Q. Did anyone when you joined</p> <p>24 the company give you training on the</p>

<p style="text-align: right;">Page 38</p> <p>1 Controlled Substances Act?</p> <p>2 A. I don't recall specifically</p> <p>3 speaking of the Controlled Substance Act.</p> <p>4 Q. How about generally?</p> <p>5 A. Everything discussed was</p> <p>6 generally -- generally concerned</p> <p>7 obviously not only the Controlled</p> <p>8 Substance Act but diversion issues or</p> <p>9 potential diversion issues in general.</p> <p>10 Q. Did you undertake any</p> <p>11 efforts on your own to become familiar</p> <p>12 with the laws and regulations under the</p> <p>13 Controlled Substances Act when you joined</p> <p>14 the company?</p> <p>15 A. I tried to keep informed on</p> <p>16 my own, yes.</p> <p>17 Q. How did you do that?</p> <p>18 A. Reading the statutes.</p> <p>19 Reading the literature available.</p> <p>20 Q. At any point -- and so I had</p> <p>21 asked you earlier if when you joined the</p> <p>22 company there was training on the</p> <p>23 Controlled Substance Act.</p> <p>24 At any point later when you</p>	<p style="text-align: right;">Page 40</p> <p>1 A. Yes.</p> <p>2 Q. Can you recall any specific</p> <p>3 such instances?</p> <p>4 A. Of training?</p> <p>5 Q. Yeah, with other members of</p> <p>6 the industry.</p> <p>7 A. Yes, I could remember</p> <p>8 basic -- it was called basic diversion</p> <p>9 training sponsored by the National</p> <p>10 Association of Drug Diversion</p> <p>11 Investigators. That was a week-long</p> <p>12 training session held in -- somewhere in</p> <p>13 Virginia. There were other -- the</p> <p>14 acronym for the organization I just</p> <p>15 mentioned is NADDI.</p> <p>16 There were other similar</p> <p>17 trainings sponsored by NADDI that I</p> <p>18 attended along with folks from throughout</p> <p>19 the industry as well as law enforcement.</p> <p>20 There was -- we did internal training for</p> <p>21 our associates on diversion-related</p> <p>22 issues.</p> <p>23 So to answer your question,</p> <p>24 yes, I -- those are a sampling of the</p>
<p style="text-align: right;">Page 39</p> <p>1 worked for the company, was there any</p> <p>2 training provided to you concerning</p> <p>3 the Controlled Substance Act?</p> <p>4 A. Well, I was involved with</p> <p>5 and received training in a lot of</p> <p>6 different areas concerning controlled</p> <p>7 substances, potential diversion issues,</p> <p>8 investigation of those kinds of issues.</p> <p>9 So, yes. Again, not specifically called</p> <p>10 the Controlled Substances Act, but all of</p> <p>11 the related issues surrounding that --</p> <p>12 that information.</p> <p>13 Q. Do you recall the names of</p> <p>14 anyone at the company who, after you</p> <p>15 joined the company, provided training to</p> <p>16 you concerning the Controlled Substance</p> <p>17 Act?</p> <p>18 A. No, I don't.</p> <p>19 Q. Did you ever attend any</p> <p>20 seminars with other members of the</p> <p>21 pharmaceutical distribution industry</p> <p>22 where you were trained or discussed the</p> <p>23 laws and -- and regulations under the</p> <p>24 Controlled Substance Act?</p>	<p style="text-align: right;">Page 41</p> <p>1 types of training that I participated in.</p> <p>2 Q. When was the first time you</p> <p>3 recall attending basic diversion</p> <p>4 training?</p> <p>5 A. I would say it was probably</p> <p>6 within my first year of employment.</p> <p>7 Q. I want to go back for a</p> <p>8 second. We talked about the process of</p> <p>9 investigating orders that had been</p> <p>10 identified by the distribution center for</p> <p>11 you to investigate.</p> <p>12 When you made a decision</p> <p>13 about whether an order should be</p> <p>14 released, as you said, or canceled, did</p> <p>15 you document that somewhere?</p> <p>16 A. Yes. On the screen of the</p> <p>17 system that we were utilizing to -- to</p> <p>18 gather the data.</p> <p>19 My recollection is there was</p> <p>20 a note section that would prompt you to</p> <p>21 enter a synopsis of the issue you're</p> <p>22 working on.</p> <p>23 Q. And did you -- would you</p> <p>24 describe the decisionmaking process that</p>

<p style="text-align: right;">Page 42</p> <p>1 you used to make your determination in 2 those notes?</p> <p>3 A. It's the same process that I 4 alluded to -- to an earlier question, 5 the -- looking at the specific -- the 6 historical data and so forth.</p> <p>7 Q. What I'm asking is, would 8 you type in the notes -- let's say you 9 cancel an order. You say canceled 10 because something you found in your 11 investigation led you to cancel. Would 12 you write that in the notes?</p> <p>13 MR. NICHOLAS: Object to the 14 form. Go ahead.</p> <p>15 THE WITNESS: In all 16 likelihood. I don't recall any 17 specific instances or can tell you 18 precisely what was entered. But, 19 yes.</p> <p>20 BY MR. PIFKO: 21 Q. Okay. And then if you 22 released an order, would you type in the 23 basis of your decision to release it in 24 there, like I looked at this, and for</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. What type of people were the 2 audience in your training sessions that 3 you can recall?</p> <p>4 A. Well, our thought when 5 addressing these issues is that everyone, 6 all associates play a role in preventing 7 potential diversion. So the -- the 8 audience varied. It included people in 9 our distribution centers who had occasion 10 to -- to handle controlled substances. 11 It included our salespeople who were kind 12 of like the eyes and ears for corporate 13 security when it came to discussing 14 diversion issues with -- with customers. 15 It included the management folks.</p> <p>16 So generally speaking, 17 everyone within the organization had some 18 exposure to discussions or training that 19 related to potential diversion issues.</p> <p>20 Q. When you say that the 21 salespeople were the eyes and the ears, I 22 can't remember exactly how you said it, 23 but they were the eyes and ears, what did 24 you mean by that?</p>
<p style="text-align: right;">Page 43</p> <p>1 whatever reason, you weren't concerned 2 and decided to release it?</p> <p>3 A. Yes.</p> <p>4 Q. And those would all be 5 maintained in the -- that database?</p> <p>6 A. Yes.</p> <p>7 Q. If someone wanted to look 8 back at those, they could?</p> <p>9 MR. NICHOLAS: Object to the 10 form.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MR. PIFKO: 13 Q. Did you ever provide 14 training to anybody else at the company 15 concerning the Controlled Substances Act?</p> <p>16 A. I wouldn't call it training 17 on the Controlled Substances Act, but on 18 diversion-related issues or potentially 19 diversion-related issues, yes.</p> <p>20 Q. Do you recall specific 21 instances of doing that?</p> <p>22 A. I couldn't give you dates 23 and times, but generally the audience I 24 could probably address to some extent.</p>	<p style="text-align: right;">Page 45</p> <p>1 A. Well, the -- the thought 2 with giving training to the sales 3 associates is that they were in and out 4 of the customer locations. So they had 5 the potential to be able to observe 6 behavior in -- in the pharmacy or 7 surrounding the pharmacy that might be 8 cause for concern. And we stressed to 9 the -- to these associates that it was 10 their responsibility to let someone know 11 if they -- if something occurred that 12 they felt uncomfortable with or that they 13 had suspicions about.</p> <p>14 So again, we would give them 15 this training to discuss certain 16 indicators with the expectations that if 17 they came across any of these indicators, 18 they would report it to corporate 19 security.</p> <p>20 Q. Is it your understanding 21 that at all times while you worked for 22 AmerisourceBergen, salespeople were 23 tasked with making these observations for 24 you?</p>

<p style="text-align: right;">Page 46</p> <p>1 A. I don't recall when 2 specifically the training occurred, but 3 the discussions were during my tenure 4 with the diversion control team. 5 Q. What I'm trying to get at, 6 was there -- was there a period when 7 there was no expectation that salespeople 8 would be providing these observations and 9 then at some point the company decided 10 you wanted to alert salespeople to be 11 doing this, or was it always the case? 12 A. No, I -- I don't believe 13 there was a period when there was any 14 thought that they never had a role in -- 15 in identifying potential diversion. 16 I think as time went on, 17 that role became more crucial and 18 discussed in greater detail than perhaps 19 when I first started with the company. 20 But then of course I didn't 21 know what I didn't know when I first 22 started with the company. So that may 23 very well have been taking place. 24 Q. Did you feel that the</p>	<p style="text-align: right;">Page 48</p> <p>1 company, correct? 2 MR. NICHOLAS: Object to the 3 form. 4 THE WITNESS: I wouldn't 5 assume they didn't know because 6 that they weren't told. I think 7 it's -- I think they were aware of 8 the issues, and I think I would 9 give them enough credit to say 10 that they did their own research 11 as well and had an idea of what -- 12 what looks wrong and what's 13 potentially wrong. 14 But that's not to say -- 15 again, I don't want to make it 16 sound like this was a regular call 17 I received from sales associates, 18 because, you know, we deal with 19 legitimate, licensed entities as 20 far as pharmacies, hospitals and 21 others that, you know, procure the 22 product. 23 So it's not like it was a 24 day in and day out situation.</p>
<p style="text-align: right;">Page 47</p> <p>1 observations provided by salespeople 2 about what was occurring at your 3 customers' locations was an important 4 part of the diversion control program? 5 A. It was just one component of 6 the diversion control program. But yes, 7 important. 8 Q. And to some degree, if you 9 want to -- as you said, the salespeople 10 are the eyes and ears, so if you want to 11 know what's happening at these customers' 12 sites, the only people who would know are 13 the salespeople who are going there, 14 agree? 15 MR. NICHOLAS: Object to the 16 form. 17 THE WITNESS: Well, they 18 would be in the best position to 19 relay that information that they 20 observed. 21 BY MR. PIFKO: 22 Q. And if they were not told 23 to -- what to look for, they wouldn't be 24 able to report anything back to the</p>	<p style="text-align: right;">Page 49</p> <p>1 (Document marked for 2 identification as Exhibit 3 ABDC-Hazewski-1.) 4 (Document marked for 5 identification as Exhibit 6 ABDC-Hazewski-2.) 7 BY MR. PIFKO: 8 Q. I'm handing you what are 9 marked as Exhibits 1 and 2. 10 Exhibit 1 is a document 11 Bates-labeled ABDCMDL00265457 and 12 Exhibit 2 is a PowerPoint presentation 13 Bates-labeled ABDCMDL00265458. I believe 14 that was produced natively. So it only 15 has one Bates number for the entire 16 document. 17 Take a minute to review 18 these documents and let me know when 19 you're done. 20 A. Okay. 21 Q. Exhibit 2 is a presentation. 22 I mean, take as much time as you need. 23 But you don't need to read necessarily 24 every word. I'll direct you to some</p>

<p style="text-align: right;">Page 50</p> <p>1 questions, and if you want to review it</p> <p>2 while I'm asking you questions, you can</p> <p>3 do that. But let me know when you're</p> <p>4 ready.</p> <p>5 A. Okay. Okay. I'm ready.</p> <p>6 Q. The first document is an</p> <p>7 e-mail from you to several people</p> <p>8 attaching the second document.</p> <p>9 Have you seen this document</p> <p>10 before?</p> <p>11 A. I have no specific</p> <p>12 recollection, but my name is on it. So I</p> <p>13 would assume I have at some point.</p> <p>14 Q. How about the presentation?</p> <p>15 Do you remember putting this presentation</p> <p>16 together, Exhibit 2?</p> <p>17 A. Again, not specifically, but</p> <p>18 it looks like something that I would have</p> <p>19 done.</p> <p>20 Q. It says here on Exhibit 1,</p> <p>21 "Attached is a draft of the presentation</p> <p>22 that I'm planning to have put on the</p> <p>23 learning management system."</p> <p>24 Do you see that?</p>	<p style="text-align: right;">Page 52</p> <p>1 this e-mail is dated April 16th, 2012.</p> <p>2 Do you see that on the e-mail?</p> <p>3 A. Yeah.</p> <p>4 Q. Sent date. It says you're</p> <p>5 still working on the last few slides and</p> <p>6 you're asking for people's commentary.</p> <p>7 So maybe it's not in final form yet, but</p> <p>8 was this the first time that you put</p> <p>9 together a presentation like this?</p> <p>10 A. I don't know the answer to</p> <p>11 that.</p> <p>12 Q. Do you recall ever providing</p> <p>13 training like this earlier in your tenure</p> <p>14 at the company?</p> <p>15 A. I participated in and</p> <p>16 presented training fairly regularly. So</p> <p>17 but to put this into the context of when</p> <p>18 it occurred versus any other</p> <p>19 presentation, I don't know the answer to</p> <p>20 that.</p> <p>21 Q. The title of this</p> <p>22 presentation, the first page, Exhibit 2,</p> <p>23 says "Prescription Drug Diversion,</p> <p>24 Recognizing the Red Flags."</p>
<p style="text-align: right;">Page 51</p> <p>1 A. Yes.</p> <p>2 Q. "Keep in mind that there</p> <p>3 will be dialogue associated with each</p> <p>4 slide. The training is aimed at sales</p> <p>5 associates, inside sales, and customer</p> <p>6 service reps in addition to any</p> <p>7 distribution center associates with an</p> <p>8 OMP function or those who handle</p> <p>9 controlled substances."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Does that refresh</p> <p>13 your recollection about who this training</p> <p>14 was intended to be for?</p> <p>15 A. Well, I think it spells it</p> <p>16 out, yes.</p> <p>17 Q. What's the learning</p> <p>18 management system?</p> <p>19 A. My understanding, an online</p> <p>20 program where an associate can sit down</p> <p>21 and do the training at their own pace</p> <p>22 without -- you know, minus a big</p> <p>23 presentation to a larger group.</p> <p>24 Q. This particular training,</p>	<p style="text-align: right;">Page 53</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Is there anything new about</p> <p>4 the idea of recognizing red flags that</p> <p>5 came to light in 2012?</p> <p>6 MR. NICHOLAS: Object to the</p> <p>7 form.</p> <p>8 THE WITNESS: I don't know</p> <p>9 what was new versus what was not</p> <p>10 new. So I would have to say I</p> <p>11 don't know the answer to that.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. Okay. What I'm trying to</p> <p>14 get at is, is the idea of recognizing a</p> <p>15 red flag or looking for a red flag of</p> <p>16 diversion something that, as far as you</p> <p>17 know, was always part of the idea of</p> <p>18 preventing diversion?</p> <p>19 A. As far as I know.</p> <p>20 Q. Yes?</p> <p>21 A. Yes.</p> <p>22 Q. So it's discussed in here,</p> <p>23 but I want to ask you. What's your</p> <p>24 understanding -- and you don't</p>

<p style="text-align: right;">Page 54</p> <p>1 necessarily have to read. I don't want 2 you to read this back to me as your 3 answer. But what's your understanding of 4 what diversion is? 5 A. Removing the -- a 6 pharmaceutical product from its intended 7 path for a nonmedical purpose. 8 Q. And do you understand that, 9 as a distributor, AmerisourceBergen is 10 what they call a registrant under the 11 Controlled Substance Act? 12 A. Yes. I know that. 13 Q. Okay. And you understand 14 that along with the right to distribute 15 controlled substances, a registrant also 16 has certain obligations that they must 17 follow under the law, correct? 18 A. Correct. 19 Q. Okay. And one of those 20 obligations is to maintain effective 21 controls to prevent diversion; is that 22 correct? 23 A. Yes. 24 Q. What does that mean to you,</p>	<p style="text-align: right;">Page 56</p> <p>1 sales, and customer service reps about 2 indicia of potential diversion, that by 3 telling them what to look for, they are 4 supposed to help stop it from occurring? 5 MR. NICHOLAS: Object to the 6 form. 7 THE WITNESS: No. They're 8 providing information for 9 corporate security that can then 10 be passed along to an authority 11 that is able to deal with those 12 issues. 13 BY MR. PIFKO: 14 Q. Do you have an understanding 15 about whether, under the company's 16 practices and the law, if an order is 17 identified as suspicious, if you're 18 permitted to ship it to a customer? 19 MR. NICHOLAS: Object to the 20 form. 21 THE WITNESS: It's -- it's 22 AmerisourceBergen's policy not to 23 ship suspicious orders. 24 BY MR. PIFKO:</p>
<p style="text-align: right;">Page 55</p> <p>1 to maintain effective controls to prevent 2 diversion? 3 MR. NICHOLAS: Object to the 4 form. 5 Go ahead. 6 THE WITNESS: To operate a 7 system that is going to assist in 8 identifying potential diversion. 9 BY MR. PIFKO: 10 Q. And preventing it as well? 11 MR. NICHOLAS: Object to the 12 form. 13 THE WITNESS: I don't know 14 that we can prevent diversion. We 15 have an obligation to report 16 suspicious orders to the DEA, but 17 in terms of preventing diversion, 18 I think that falls more into the 19 DEA's lap than the wholesale 20 distributor. 21 BY MR. PIFKO: 22 Q. Do you believe that, in this 23 training, telling -- as you said in your 24 e-mail, telling sales associates, inside</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. And why is that? 2 A. That's a policy that we've 3 adopted. 4 Q. Do you have any reason why 5 the company adopted that policy? 6 MR. NICHOLAS: Objection to 7 the form. Asked and answered. 8 THE WITNESS: Well, it 9 satisfies our obligation to report 10 the order. And we don't want to 11 ship any order that is deemed to 12 be suspicious. 13 BY MR. PIFKO: 14 Q. Why don't you want to ship 15 an order that is deemed to be suspicious? 16 MR. NICHOLAS: Object to the 17 form. Asked and answered twice. 18 Go ahead. 19 THE WITNESS: Again, it's 20 the company's policy not to do so. 21 BY MR. PIFKO: 22 Q. One thing is what is. I'm 23 asking why. So you said we don't want to 24 ship an order that is deemed suspicious.</p>

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1 So my question is why you don't want to
2 ship an order that is deemed suspicious.
3 MR. NICHOLAS: Asked and
4 answered. Objection.
5 MR. SHAPLAND: Objection to
6 form as well. Eric Shapland.
7 THE WITNESS: I have nothing
8 to add to my answer. Other than
9 it's our company's policy not to
10 ship a suspicious order.
11 BY MR. PIFKO:
12 Q. Do you have any
13 understanding about why you wouldn't want
14 to ship a suspicious order?
15 MR. NICHOLAS: Object to
16 form. Asked and answered.
17 THE WITNESS: No, other than
18 it's our policy.
19 BY MR. PIFKO:
20 Q. Would you agree that by not
21 shipping an order that is suspicious, you
22 can stop it from getting it into illegal
23 hands?
24 MR. NICHOLAS: Object to the

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1 form.
2 THE WITNESS: I -- I
3 personally never saw a correlation
4 between suspicious orders and
5 potential diversion.
6 It's a business decision for
7 the company to make as to whether
8 or not we're going to ship an
9 order that is classified as
10 suspicious.
11 And as stated, it's our
12 policy not to do so.
13 BY MR. PIFKO:
14 Q. Let's go a few pages into
15 your PowerPoint presentation.
16 There's a page that says red
17 flags. It's on the screen in front of
18 you to help you find it.
19 A. I got it.
20 Q. Okay. Do you know what a
21 red flag is in the context of this
22 presentation?
23 A. A red flag is something that
24 could possibly involve closer scrutiny or

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1 further investigation if identified.
2 Q. Why would these things lead
3 you to want to conduct closer scrutiny,
4 something that's a red flag?
5 MR. NICHOLAS: Object to the
6 form. Go ahead though.
7 THE WITNESS: Well, it's --
8 it's information that comes to
9 light that prompts more questions.
10 And in order to thoroughly
11 investigate suspicious orders or
12 indicators of potential diversion,
13 it's necessary to identify the
14 flag and -- and try to determine
15 the reasons behind that red flag.
16 Perhaps there's reasonable -- a
17 reasonable explanation for
18 something, perhaps not.
19 BY MR. PIFKO:
20 Q. Well, let's go through
21 the -- the next -- some of these red
22 flags that you put in your presentation
23 here.
24 The first one is,

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1 "Dispensing large quantities of Oxycodone
2 prescriptions, (greater than 12 to
3 15 percent) when compared with total
4 number of prescriptions."
5 Do you see that?
6 A. Yes.
7 Q. Is this something that you
8 wrote here in your presentation?
9 A. If I authored it, yes. But
10 I'm not certain. I don't recall
11 specifically doing that.
12 Q. The e-mail says: "Attached
13 is a draft presentation that I am
14 planning to have put on" -- it appears to
15 be something that you're putting
16 together. Do you dispute that?
17 A. No, I do not.
18 Q. Okay. Why is dispensing a
19 large quantity, something that's 12 to
20 15 percent more of Oxycodone when --
21 sorry, let me just rephrase that.
22 Why would dispensing a large
23 quantity of Oxycodone in comparison with
24 the total number of prescriptions at a

<p style="text-align: right;">Page 62</p> <p>1 pharmacy be a red flag?</p> <p>2 A. Well, based on information</p> <p>3 from the DEA and other industry sources,</p> <p>4 Oxycodone was a high risk for potential</p> <p>5 diversion, so that particular product was</p> <p>6 scrutinized more closely than -- and</p> <p>7 higher concentrations are cause for</p> <p>8 concern without a reasonable explanation.</p> <p>9 Q. Why is it a concern if a</p> <p>10 pharmacy has got something 12 to</p> <p>11 15 percent or more of its total sales are</p> <p>12 Oxycodone, why is that a concern?</p> <p>13 MR. NICHOLAS: Object to the</p> <p>14 form.</p> <p>15 THE WITNESS: It's a concern</p> <p>16 because, again, Oxycodone is at</p> <p>17 high risk for potential diversion.</p> <p>18 And a customer dispensing larger</p> <p>19 quantities is cause to ask further</p> <p>20 questions as to why they are</p> <p>21 following -- you know, following</p> <p>22 that particular business model.</p> <p>23 There may be explanations.</p> <p>24 There may not.</p>	<p style="text-align: right;">Page 64</p> <p>1 would prescribe.</p> <p>2 Q. Do you recall any reasons</p> <p>3 provided by pharmacies for having this</p> <p>4 kind of ratio that you felt were</p> <p>5 illegitimate?</p> <p>6 MR. NICHOLAS: Object to the</p> <p>7 form.</p> <p>8 THE WITNESS: I can't recall</p> <p>9 any specifics of that, no.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. Sitting here today, I asked</p> <p>12 you if you recall a question or a</p> <p>13 response from a pharmacist. But just</p> <p>14 sitting here today, can you give an</p> <p>15 example of a reason that would be</p> <p>16 illegitimate to have a ratio like this?</p> <p>17 MR. NICHOLAS: Objection.</p> <p>18 Object to the form.</p> <p>19 A reason provided by a</p> <p>20 pharmacist? Is that what you</p> <p>21 mean?</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. I'm asking any reason that</p> <p>24 you can think of.</p>
<p style="text-align: right;">Page 63</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. Did you ever talk with any</p> <p>3 representatives of pharmacies about their</p> <p>4 selling quantities of Oxycodone that were</p> <p>5 12 to 15 percent or greater than -- of</p> <p>6 their total sales?</p> <p>7 A. Through the years I'm sure I</p> <p>8 have talked to any number of pharmacists</p> <p>9 in similar circumstances. I don't recall</p> <p>10 any specifics.</p> <p>11 Q. Do you recall any reasons</p> <p>12 that any pharmacy might have provided to</p> <p>13 you for having that ratio of Oxycodone</p> <p>14 to -- as compared to their total number</p> <p>15 of prescriptions?</p> <p>16 A. Yes.</p> <p>17 Q. Can you provide some of the</p> <p>18 reasons you recall?</p> <p>19 A. Well, the -- probably the</p> <p>20 primary reason is they are servicing a</p> <p>21 demographic usually classified as pain</p> <p>22 management that -- I'm not a doctor, but</p> <p>23 I -- I'm assuming the Oxycodone is</p> <p>24 generally a regimen that pain doctors</p>	<p style="text-align: right;">Page 65</p> <p>1 MR. NICHOLAS: I'll object</p> <p>2 to the form.</p> <p>3 THE WITNESS: Okay. I got</p> <p>4 turned around in the back and</p> <p>5 forth, so, can you repeat the</p> <p>6 question?</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. Yeah. I'm just asking --</p> <p>9 forget about any conversations with</p> <p>10 pharmacists. Can you -- as someone who</p> <p>11 is in charge of the diversion control</p> <p>12 function at Amerisource and who served as</p> <p>13 an investigator, can you think of an</p> <p>14 illegitimate reason why a pharmacy would</p> <p>15 be having a higher quantity of Oxycodone</p> <p>16 as part of their percentage of their</p> <p>17 total sales?</p> <p>18 MR. NICHOLAS: Object to the</p> <p>19 form.</p> <p>20 THE WITNESS: Well, the --</p> <p>21 the illegitimate reasons may very</p> <p>22 well be the same as the legitimate</p> <p>23 reasons.</p> <p>24 If -- if a customer tells us</p>

<p style="text-align: right;">Page 66</p> <p>1 they're -- or has told us that 2 they were servicing a physician 3 who works in a pain management 4 clinic, then that may be cause for 5 the person responsible for vetting 6 the physicians or policing the 7 physicians to look closer as to 8 whether or not the pharmacist is 9 doing all they can to vet the 10 doctors and prescriptions that are 11 prompting the increase levels of 12 Oxycodone. 13 BY MR. PIFKO: 14 Q. So when you say that someone 15 who is in charge of vetting the 16 physicians, who would that be? 17 MR. NICHOLAS: Object to the 18 form. 19 THE WITNESS: I would say 20 the responsibility for that lies 21 with the pharmacist. 22 BY MR. PIFKO: 23 Q. At any time during your 24 tenure at AmerisourceBergen, did the</p>	<p style="text-align: right;">Page 68</p> <p>1 Q. Okay. And when they 2 provided that information, how would they 3 provide that? 4 A. How would they provide it? 5 Q. Yeah. 6 A. Through the due diligence 7 process, there were forms that were used 8 by -- by the distribution centers and the 9 sales associates to gather the 10 information. 11 Q. And upon receiving that 12 information, was it the company's 13 practice to always conduct this review of 14 publicly available information of the top 15 prescribers at every customer? 16 A. There was a point in time 17 when -- when that information became 18 standard on the form that we used to 19 onboard customers. But I couldn't tell 20 you when that particular time was. 21 Q. Well, after that information 22 started to be provided on the form, did 23 you always then take that information and 24 perform a review of publicly available</p>
<p style="text-align: right;">Page 67</p> <p>1 company ever examine the legitimacy of 2 physicians as part of its diversion 3 control functions? 4 MR. NICHOLAS: Object to the 5 form. 6 THE WITNESS: We would 7 request information from customers 8 concerning their top prescribing 9 physicians and check available 10 public records. But beyond that, 11 no. 12 BY MR. PIFKO: 13 Q. When you say check available 14 public records, what do you mean by that? 15 A. Checking with the authority 16 that polices physicians in a particular 17 state to see if there's been any public 18 records of discipline or sanctions 19 against the medical license. 20 Q. Was that a standard practice 21 to do that with every customer? 22 A. It was part of the 23 onboarding process for new customers, to 24 provide that information.</p>	<p style="text-align: right;">Page 69</p> <p>1 information on those top prescribers? 2 A. Yes. 3 Q. Did you document the review 4 anywhere in your files? 5 A. It was part of the due 6 diligence file, yeah. 7 Q. So any research that you 8 would have conducted on the top 9 prescribers of any customer would be 10 maintained in the due diligence file for 11 that customer? 12 MR. NICHOLAS: Object to the 13 form. 14 THE WITNESS: Yes. 15 BY MR. PIFKO: 16 Q. Let's go back to Exhibit 2. 17 We've got the slide that I was going to 18 ask you about up in front of you. 19 Another red flag of diversion is 20 dispensing a high percentage of oxycodone 21 30-milligram prescriptions versus all 22 other oxycodone strengths being 23 dispensed. 24 Do you see that?</p>

<p style="text-align: right;">Page 70</p> <p>1 You just had it, right</p> <p>2 there, with your left hand. Keep going.</p> <p>3 A. Gotcha.</p> <p>4 Q. One more. There you go.</p> <p>5 A. Yes, I see it.</p> <p>6 Q. Okay. Why is that a red</p> <p>7 flag of diversion.</p> <p>8 A. For reasons that are unclear</p> <p>9 to me, that particular strength of</p> <p>10 oxycodone seemed to be considered to be</p> <p>11 more highly abused than other -- other</p> <p>12 strengths of the same product.</p> <p>13 Q. What was the basis for that</p> <p>14 knowledge?</p> <p>15 MR. NICHOLAS: Object to the</p> <p>16 form.</p> <p>17 THE WITNESS: Information</p> <p>18 received from the DEA as well as</p> <p>19 trade organizations in the</p> <p>20 industry.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. And why would it be a</p> <p>23 concern if a pharmacy was dispensing more</p> <p>24 of this than other types of oxycodone?</p>	<p style="text-align: right;">Page 72</p> <p>1 who specifically I heard it from. But it</p> <p>2 was generally discussed information in</p> <p>3 the industry.</p> <p>4 Q. When do you believe was the</p> <p>5 first time you heard that?</p> <p>6 A. My best recollection would</p> <p>7 have probably been when I took -- became</p> <p>8 manager of the diversion control team.</p> <p>9 Q. When was that?</p> <p>10 A. 2008.</p> <p>11 Q. So looking at this slide --</p> <p>12 I know we're going out of order, but it</p> <p>13 was relevant to the area that we were</p> <p>14 discussing. Why is dispensing</p> <p>15 prescriptions to patients or from</p> <p>16 physicians not from the local area a red</p> <p>17 flag?</p> <p>18 A. Well, it suggests that they</p> <p>19 can't get the prescriptions they want</p> <p>20 locally, so they branch out, would be my</p> <p>21 best guess.</p> <p>22 Q. Right. That the idea that</p> <p>23 someone who has a legitimate medical need</p> <p>24 for a prescription probably wouldn't be</p>
<p style="text-align: right;">Page 71</p> <p>1 A. Well, knowing that it's more</p> <p>2 prone to abuse, that would become a</p> <p>3 concern for -- for us.</p> <p>4 Q. You see on your copy and on</p> <p>5 the screen, these pills are blue.</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Have you ever heard of</p> <p>9 something called the Blue Highway?</p> <p>10 A. I've not heard that term.</p> <p>11 Q. Okay. Have you heard of the</p> <p>12 idea that -- let's look at one of the</p> <p>13 other slides here.</p> <p>14 Go a few pages down.</p> <p>15 There's a page with a bunch of license</p> <p>16 plates, going towards -- yeah.</p> <p>17 Have you heard of the idea</p> <p>18 that people would travel to places like</p> <p>19 Florida and bring pills back into other</p> <p>20 areas like West Virginia and Ohio, among</p> <p>21 other states?</p> <p>22 A. I've heard of that.</p> <p>23 Q. Where did you hear that?</p> <p>24 A. I can't -- I couldn't say</p>	<p style="text-align: right;">Page 73</p> <p>1 driving out of the area to get their</p> <p>2 prescription, correct?</p> <p>3 A. I would agree with that.</p> <p>4 Q. Let's go back to, a few</p> <p>5 pages earlier, this page with the money</p> <p>6 and the pills on it. The other way. The</p> <p>7 other way, towards the beginning.</p> <p>8 So you see another red flag</p> <p>9 is accepting an unusually large</p> <p>10 percentage of cash transactions for</p> <p>11 prescriptions.</p> <p>12 Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. Why is that a red flag of</p> <p>15 diversion?</p> <p>16 A. Cash payments were generally</p> <p>17 looked at as being subject to trying to</p> <p>18 determine more information on those</p> <p>19 transactions because of not being able to</p> <p>20 track that information as you would</p> <p>21 that's being paid by a third-party payor.</p> <p>22 Q. Is it also the idea that</p> <p>23 again a legitimate prescription, not</p> <p>24 always but most likely, would have some</p>

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1 sort of insurance coverage associated
2 with it?
3 MR. NICHOLAS: Object to the
4 form.
5 THE WITNESS: Yes.
6 BY MR. PIFKO:
7 Q. The next slide says, "Cash
8 transactions average 8 percent or less of
9 all transactions according to the DEA."
10 Do you see that?
11 A. Yes, I do.
12 Q. Do you agree with that
13 statement?
14 MR. NICHOLAS: Object to the
15 form.
16 THE WITNESS: I have -- no,
17 I have no knowledge of the 8
18 percent reference in that slide.
19 I don't know that I'm
20 qualified to speak to that
21 question.
22 BY MR. PIFKO:
23 Q. Okay. This was something
24 that you put together. Do you think that

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1 you researched this and found that
2 somewhere to put that on the slide?
3 A. Yes.
4 Q. So it was probably accurate
5 at the time that you put it on the slide?
6 A. Yes.
7 Q. Next page. "Purchasing
8 controlled substances from multiple
9 wholesalers." And then it's got images
10 of the different distribution companies,
11 right there.
12 Why is that a red flag of
13 diversion?
14 A. Well, as a wholesale
15 distributor, we don't have visibility to
16 other -- other companies that are
17 servicing a particular customer. So
18 potentially a customer can order from
19 multiple wholesale distributors and fly
20 under the radar in terms of order
21 monitoring programs or just due diligence
22 in general.
23 Q. Have you ever heard of a
24 utilization report or a usage report?

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1 A. Yes.
2 Q. Can you tell me what that
3 is?
4 A. Well, from our perspective,
5 it's the historical data of purchasing by
6 a particular customer from
7 AmerisourceBergen.
8 Q. Is that something that you
9 request from the customer?
10 A. No, that's information that
11 we would -- we would source from our own
12 internal systems.
13 Q. Do you recall ever
14 requesting from a customer their purchase
15 history from any other distributors in
16 addition to yourself?
17 A. I don't recall ever having
18 done that.
19 Q. Do you recall ever attending
20 presentations put on by manufacturers
21 where they told you some of the highest
22 purchasers of their products from all
23 distributors, which included customers
24 that were yours?

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1 A. I have spoken with
2 representatives of manufacturers, not in
3 the -- not in the -- not in a scene of
4 multiple representatives speaking about
5 that publicly. But I've had
6 conversations with manufacturers
7 concerning customers that they had
8 concerns with because -- and were
9 speaking to me because we service that
10 particular customer.
11 Q. Do you recall attending a
12 presentation by Actavis where they gave
13 you a list of some of the highest
14 purchasers of certain opioid products,
15 and the discussion included customers
16 that purchased from you and other
17 distributors?
18 A. No.
19 MR. CIULLO: Object to form.
20 Zach Ciullo.
21 THE WITNESS: I don't recall
22 ever attending such a session.
23 BY MR. PIFKO:
24 Q. Let's go to this slide here.

<p style="text-align: right;">Page 78</p> <p>1 You're there. It says, "Dispensing 2 controlled substance cocktails consisting 3 of multiple prescriptions for oxycodone, 4 Xanax and Soma for a single patient." 5 Do you see that? 6 A. Yes, I do. 7 Q. Why is that a red flag of 8 diversion? 9 A. Okay. Not being a 10 pharmacist or a doctor, it's my lay 11 understanding that cocktails similar to 12 what are described in this slide may not 13 conform to the medical -- a legitimate 14 medical purpose. 15 Q. So if a doctor is writing 16 prescriptions for this combination of 17 products or a pharmacy is filling 18 prescriptions for this combination of 19 products, it's your understanding that 20 that's not a legitimate medical use? 21 A. No, I wouldn't go that far. 22 It's cause for concern. But again, I'm 23 not a pharmacist or a doctor. 24 Q. Okay.</p>	<p style="text-align: right;">Page 80</p> <p>1 Trinity"? 2 A. I have. 3 Q. What is that? 4 A. A combination of an opioid, 5 a benzodiazepine, and a muscle relaxant 6 prescribed together to one patient. 7 Q. Is that something of 8 potential concern? 9 A. It is of potential concern, 10 yes. 11 Q. And why is that? 12 A. For the same reasons that 13 the other cocktails were a concern. 14 Again, not being a pharmacist or a 15 physician, my understanding is, 16 prescribed in those -- in that 17 combination is potentially a dangerous 18 situation for a patient taking those 19 particular drugs. 20 Q. Is that a situation that -- 21 is potentially someone doing that as 22 abusing the drugs? 23 MR. NICHOLAS: Object to the 24 form.</p>
<p style="text-align: right;">Page 79</p> <p>1 A. But I do know that there's 2 cause for concern when prescribing those 3 combinations. 4 Q. You'd be concerned that it's 5 not a legitimate medical use? 6 A. Well, again it's difficult 7 for us to even have that information. 8 The -- the dispensing data from a 9 particular pharmacy is -- is, you know, 10 is not a routine piece of information 11 that a wholesale distributor would have. 12 Q. Understood. But again, 13 just -- I'm just clarifying for the 14 record, that the concern though is that 15 this type of combination, whether you 16 know it to be true or not, there's a 17 concern that it's not a legitimate 18 medical use, is that correct? 19 MR. NICHOLAS: Object to the 20 form. 21 THE WITNESS: That's part of 22 the concerns, yes. 23 BY MR. PIFKO: 24 Q. Have you heard of "The Holy</p>	<p style="text-align: right;">Page 81</p> <p>1 THE WITNESS: I don't know 2 that I can say abusing the drugs. 3 If the prescription is written by 4 a licensed medical doctor, I think 5 it's incumbent on the pharmacist 6 to identify and ask the proper 7 questions concerning the use of 8 that combination. 9 MR. NICHOLAS: Mark, if 10 we're close to the end of this 11 document, we can complete it. 12 Otherwise if you're going to be a 13 while we'd like to take a break. 14 MR. PIFKO: No, I think 15 I'm -- I'm close to the end of it. 16 We'll finish it and then we'll 17 take a break. 18 BY MR. PIFKO: 19 Q. Turn to this page. It says, 20 "Abused Pharmaceuticals Substances." 21 It's towards the end there? 22 A. Yes. 23 Q. Can you tell me what this -- 24 what this is and why this is included in</p>

Page 82

1 here?

2 A. Well, as it says on the

3 document itself, it's a handout from the

4 NADDI organization that I referenced

5 earlier. And I included it for the

6 obvious reasons that it lists potentially

7 high risk controlled substances.

8 Q. Let's go to the next, the

9 next slide here. It says, "What is a

10 suspicious order?"

11 Do you see that?

12 A. Yes.

13 Q. Can you tell me in your own

14 words what a suspicious order is?

15 A. An order of unusual

16 quantity, an order that is ordered more

17 frequently as compared to their

18 historical ordering, and one that

19 deviates from a particular pattern.

20 Q. If something is identified

21 as a suspicious -- well, first of all,

22 does -- do you understand that as a

23 registrant under the Controlled

24 Substances Act, AmerisourceBergen has a

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1 duty to identify suspicious orders?

2 A. Yes.

3 Q. And do you have an

4 understanding as to why they have that

5 duty?

6 MR. NICHOLAS: Object to the

7 form.

8 THE WITNESS: It's mandated

9 in the statute.

10 BY MR. PIFKO:

11 Q. Okay. Do you have an

12 understanding as to why the statute

13 requires you to do that?

14 MR. NICHOLAS: Object to the

15 form.

16 THE WITNESS: My

17 understanding is it's to identify

18 potential diversion.

19 BY MR. PIFKO:

20 Q. And if you identify

21 something as a suspicious order, what are

22 you supposed to do?

23 MR. NICHOLAS: Object to the

24 form.

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1 THE WITNESS: I know what --

2 MR. NICHOLAS: Go ahead.

3 THE WITNESS: I know what we

4 do, which is not ship it.

5 MR. PIFKO: We can take a

6 break.

7 MR. NICHOLAS: Thank you.

8 THE VIDEOGRAPHER: Going off

9 record. The time is 10:54.

10 (Short break.)

11 THE VIDEOGRAPHER: We're

12 going back on the record.

13 Beginning Media File Number 2.

14 The time is 11:20.

15 BY MR. PIFKO:

16 Q. I want to ask you about a

17 comment that you made a little bit before

18 we took a break.

19 I was asking you about

20 suspicious orders and you said -- you

21 said -- I'm quoting, "I personally never

22 saw a correlation between suspicious

23 orders and potential diversion."

24 Do you recall saying that?

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1 A. Yes.

2 Q. Okay. So is it your view

3 that there's no correlation between

4 suspicious orders and diversion?

5 MR. NICHOLAS: I'll object

6 to the form.

7 THE WITNESS: No. My

8 opinion is that there was -- not

9 in all cases. But it's not a

10 given that a suspicious order is

11 going to be potentially diverted

12 in some manner.

13 BY MR. PIFKO:

14 Q. Right. But you said, "I

15 never saw a correlation between

16 suspicious orders and diversion."

17 So what did you mean by

18 that?

19 MR. NICHOLAS: Objection.

20 Bickering.

21 THE WITNESS: I meant what I

22 just explained, that it's not a

23 given that a suspicious order is a

24 product that's necessarily going

<p style="text-align: right;">Page 86</p> <p>1 to be subject to potential 2 diversion. 3 BY MR. PIFKO: 4 Q. Do you think that 5 identifying, reporting and stopping the 6 shipments of suspicious orders helps 7 prevent diversion? 8 MR. NICHOLAS: Object to the 9 form. It's a fact deposition. 10 You're just asking him about 11 nonfactual things now, about his 12 opinion on things. 13 THE WITNESS: So what's the 14 question? I'm sorry. 15 BY MR. PIFKO: 16 Q. Do you think that 17 identifying, reporting, and stopping the 18 shipments of suspicious orders helps 19 prevent diversion? 20 MR. NICHOLAS: Exact same 21 objection. 22 Go ahead. 23 THE WITNESS: I think that 24 that question is better suited for</p>	<p style="text-align: right;">Page 88</p> <p>1 instances where it could assist in 2 identifying diversion. I stand by 3 my contention that I -- throughout 4 my career I've not necessarily 5 seen suspicious orders -- I've not 6 been presented with information 7 that would suggest that those 8 suspicious orders were subject -- 9 I'm sorry, I lost my train of 10 thought. 11 I stand by my statement that 12 I've not seen a correlation 13 between suspicious orders and 14 potential diversion. 15 BY MR. PIFKO: 16 Q. Other than having a 17 suspicious order monitoring program, and 18 security measures within its warehouses, 19 does AmerisourceBergen implement any 20 other procedures or programs to prevent 21 diversion? 22 MR. NICHOLAS: Object to the 23 form of the question. 24 THE WITNESS: No, beyond</p>
<p style="text-align: right;">Page 87</p> <p>1 the DEA to answer, who required 2 the identifying and reporting of 3 suspicious orders. 4 The shipping of orders is 5 the company's decision and policy 6 not to do so. And that's my 7 answer. 8 BY MR. PIFKO: 9 Q. Okay. Well, I'm not asking 10 for the DEA's answer. You're the one 11 who's being deposed here today. I'm 12 asking for your answer. So I would 13 appreciate if you would provide that to 14 me. I'll ask the question again so that 15 you know. 16 I'm asking if you think that 17 identifying, reporting, and stopping the 18 shipments of suspicious orders helps 19 prevent diversion? 20 MR. NICHOLAS: Objection to 21 the form of the question. And 22 he's just answered the question. 23 So it's asked and answered. 24 THE WITNESS: There may be</p>	<p style="text-align: right;">Page 89</p> <p>1 what is required by statute. We 2 comply with all of the statutes as 3 they concern developing and 4 operating a system to help 5 identify potential diversion. But 6 beyond what we currently utilize, 7 that's -- that's it. 8 BY MR. PIFKO: 9 Q. And what you currently 10 utilize is a suspicious order monitoring 11 program and certain security measures 12 within your facilities, is that correct? 13 MR. NICHOLAS: Object to the 14 form. 15 THE WITNESS: And a due 16 diligence program which is an 17 ongoing monitoring of customers. 18 BY MR. PIFKO: 19 Q. So that's yes and a due 20 diligence program, just to be clear? 21 A. I'm sorry? 22 Q. Your answer was yes and a 23 due diligence program? 24 A. Correct.</p>

<p style="text-align: right;">Page 90</p> <p>1 MR. NICHOLAS: Object to the 2 form. 3 BY MR. PIFKO: 4 Q. Is the due diligence program 5 separate and apart from the suspicious 6 order monitoring program? 7 A. Well, they are two different 8 functions, but I think they all mesh 9 together at some point to give us a good 10 capsule of the customer we're dealing 11 with. 12 (Document marked for 13 identification as Exhibit 14 ABDC-Hazewski-3.) 15 BY MR. PIFKO: 16 Q. I'm handing you what's been 17 marked as Exhibit 3. 18 It is a one-page document 19 Bates labeled ABDCMDL00268888. Take a 20 minute to review and let me know when 21 you're done. 22 MR. CIULLO: Can you repeat 23 those numbers, please? 24 MR. PIFKO: Yeah,</p>	<p style="text-align: right;">Page 92</p> <p>1 yours, but for other divisions of the 2 company? 3 MR. NICHOLAS: Object to the 4 form. 5 THE WITNESS: No. Paul's 6 role was above me in terms of -- 7 in terms of his scope of 8 authority. 9 BY MR. PIFKO: 10 Q. So he says here in response 11 to your presentation, "It's amazing how 12 few people recognize the red flags." Do 13 you see that? 14 A. I do. 15 Q. Do you agree with that 16 statement? 17 A. No. 18 Q. What makes you disagree with 19 it? 20 A. Well, just my -- my 21 experience in talking with other 22 associates is that people generally as 23 time went on gained a greater 24 appreciation for why we do the things we</p>
<p style="text-align: right;">Page 91</p> <p>1 ABDCMDL00268888. 2 THE WITNESS: I've reviewed. 3 BY MR. PIFKO: 4 Q. So this is an e-mail that 5 Paul Ross writes in response to your 6 attaching the presentation that we were 7 discussing which is Exhibit 2. Do you 8 see that? 9 A. Yes. 10 Q. Okay. And who is Paul Ross? 11 A. Paul Ross is a senior 12 director in the corporate security 13 regulatory affairs department for 14 AmerisourceBergen. 15 Q. What was his specific role, 16 what was his focus? 17 A. My understanding is Paul 18 specialized in the specialty companies 19 that are subsidiaries of 20 AmerisourceBergen. 21 Q. And what did he do for them? 22 A. Regulatory issues, review 23 compliance with existing statutes. 24 Q. Was his role similar to</p>	<p style="text-align: right;">Page 93</p> <p>1 do in corporate security and regulatory 2 affairs. 3 And some positive feedback 4 that I've gotten from the field in terms 5 of how helpful this particular 6 information has been and will continue to 7 be. 8 Q. Well, he says here, "I 9 certainly believe this will be a useful 10 thing." Do you think what he's saying is 11 people don't -- prior to them receiving 12 this training, he's saying people don't 13 recognize it, and he's saying this will 14 help them recognize it? 15 MR. NICHOLAS: Object to 16 form. 17 BY MR. PIFKO: 18 Q. Do you -- do you understand 19 him to be saying that? 20 MR. NICHOLAS: Object to the 21 form. 22 THE WITNESS: I can't get 23 inside Paul's head, so I really 24 couldn't say what he meant by a</p>

<p style="text-align: right;">Page 94</p> <p>1 particular statement. 2 BY MR. PIFKO: 3 Q. Do you recall at the time 4 having a belief that you needed to have 5 this training session because people 6 weren't recognizing the red flags? 7 A. No. I think the thought was 8 that the training sessions are critical 9 across the -- across the company. And as 10 I've said previous, the -- you know, our 11 opinion is that all of our associates 12 play a role in -- in protecting the 13 company assets and help -- helping to 14 identify potential diversion. 15 (Document marked for 16 identification as Exhibit 17 ABDC-Hazewski-4.) 18 BY MR. PIFKO: 19 Q. I'm handing you now what's 20 been marked as Exhibit 4. It is a 21 PowerPoint presentation from Actavis. 22 It's Bates labeled Allergan_MDL_00381552, 23 and the last page is 0381566. 24 Take a minute to review that</p>	<p style="text-align: right;">Page 96</p> <p>1 going to -- we're going to discuss 2 it with him. 3 MR. NICHOLAS: Is that -- 4 no, no, without getting Allergan's 5 permission. 6 MR. PIFKO: Yeah, we went 7 through this issue with the 8 Cardinal document yesterday too. 9 There's a provision in the 10 protective order where he's 11 permitted to see it because it was 12 shown to him already. 13 MR. CIULLO: That was a -- 14 that was a Cardinal document. 15 This is an Allergan document. 16 MR. PIFKO: It doesn't 17 matter -- 18 MR. CIULLO: You have to 19 reach out to Allergan to get 20 permission to use it. 21 MR. PIFKO: I don't need to 22 get permission, okay? We're not 23 doing this. 24 BY MR. PIFKO:</p>
<p style="text-align: right;">Page 95</p> <p>1 and let me know when you're done. 2 MR. CIULLO: This is Zach 3 Ciullo. Have you received a -- is 4 this marked confidential? I can 5 pull it up really quickly. 6 MR. PIFKO: It is. He is 7 authorized under the protective 8 order to review it. 9 MR. CIULLO: Okay. Have you 10 reached out to Allergan to get 11 permission to use it? 12 MR. PIFKO: No, I'm not 13 required to do so. 14 MR. CIULLO: And I'm sorry, 15 can you repeat the Bates one more 16 time? 17 MR. PIFKO: Yes. 00381552 18 through 381566. 19 MR. NICHOLAS: I -- I'm 20 going to just -- I'll confess, I 21 really don't know whether he's -- 22 whether you're permitted to use 23 the document. 24 MR. PIFKO: Well, we're</p>	<p style="text-align: right;">Page 97</p> <p>1 Q. Sir, tell me when you're 2 done reviewing the document. 3 MR. NICHOLAS: You're -- 4 MR. CIULLO: I beg your 5 pardon. I think you do need 6 permission under the -- 7 MR. PIFKO: I don't, okay? 8 You can object to it later, but I 9 don't. Under 34 -- 10 MR. NICHOLAS: Mark, I think 11 you said because he's seen it 12 before. But what -- what -- how 13 do we know he's seen it? 14 MR. PIFKO: His name is on 15 the document, it's his -- I'm 16 trying not to taint the testimony. 17 I'm going to ask him some 18 questions about it. 19 MR. CIULLO: All right. 20 This is Zach Ciullo. Docket 441, 21 paragraph 333M. "No confidential 22 information of one defendant may 23 be shown to any witness who is a 24 current employee of another</p>

<p style="text-align: right;">Page 98</p> <p>1 defendant who is not otherwise 2 authorized to receive the 3 information under this order." 4 MR. PIFKO: He is otherwise 5 authorized because -- 6 MR. CIULLO: I can't see how 7 he is otherwise authorized to 8 receive the information under the 9 agreement. 10 MR. PIFKO: Because he -- he 11 previously reviewed or received 12 the information. 13 MR. NICHOLAS: You don't 14 know -- the issue is -- that I 15 have is, you don't know that -- 16 for example, there are other 17 people listed as attendees who did 18 not attend this thing. 19 So I don't know whether he's 20 seen this document. 21 MR. PIFKO: Okay. Well, 22 we're going to ask him, okay? 23 MR. NICHOLAS: You have to 24 start with that before you use the</p>	<p style="text-align: right;">Page 100</p> <p>1 meeting participants here? 2 A. Yes. 3 Q. Okay. And you are listed 4 among -- you are the first participant 5 listed there. Do you see that? 6 A. Yeah. 7 Q. Okay. And it's got Actavis 8 people here listed who participated in 9 this meeting. Nancy Baran, Michael 10 Clarke, and John Duff. 11 Do you see that? 12 A. Yeah. 13 MR. NICHOLAS: As you go 14 forward, I'm going to -- I'm just 15 going to interpose an objection. 16 I'm going to -- I have to do this 17 to make a record. 18 My objection is I don't 19 believe you can use this document 20 in the deposition, including 21 showing it to him and putting it 22 on the record until you establish 23 that he has seen the document or 24 had involvement. I mean, all he's</p>
<p style="text-align: right;">Page 99</p> <p>1 document. 2 MR. PIFKO: We're going to 3 ask him. 4 MR. NICHOLAS: I think you 5 have to do that before -- 6 MR. PIFKO: I need to -- no, 7 I need to -- 8 MR. CIULLO: You have to 9 first establish a foundation. 10 MR. PIFKO: I'm going to do 11 that right now. 12 BY MR. PIFKO: 13 Q. Please, sir, can you go to 14 page -- okay. See the first page. Do 15 you see a date here? 16 The title of this document 17 is Suspicious Order Monitoring, 18 Partnership Meeting, AmerisourceBergen, 19 Chesterbrook, Pennsylvania, October 22, 20 2012. 21 Do you see that? 22 A. Yes, I do. 23 Q. Okay. This is a meeting, a 24 partnership meeting. And you see it has</p>	<p style="text-align: right;">Page 101</p> <p>1 said so far is he -- 2 MR. PIFKO: I'm trying to 3 ask him questions. You are 4 interrupting my ability to do that 5 right now. 6 MR. NICHOLAS: You -- you 7 asked him about this before, and 8 he said he had no recollection. 9 MR. PIFKO: He doesn't 10 recall. It doesn't mean -- so -- 11 MR. NICHOLAS: All right. 12 Go ahead. I've interposed my 13 objection. Go ahead. 14 MR. PIFKO: This is -- 15 MR. CIULLO: I raise the 16 exact same objection. 17 MR. PIFKO: Okay. You -- 18 under the rules of the deposition, 19 one person can make the objection 20 for all defendants. So you don't 21 need to say the same objection 22 twice. 23 MR. CIULLO: Okay. Well, 24 this is an Allergan specific</p>

<p style="text-align: right;">Page 102</p> <p>1 document so I'm objecting on 2 behalf of Allergan. I represent 3 Allergan. 4 MR. PIFKO: Well, he made 5 the objection for you. All you're 6 doing is disrupting the 7 deposition. So if you have 8 something new to say, you're -- 9 I'm not going to stop you from 10 saying that. But if you're just 11 going to say, "I agree with what 12 he said," his objection stands for 13 you. It's in the documents. You 14 don't need to say that. 15 BY MR. PIFKO: 16 Q. Okay, sir. So I'm trying to 17 ask you questions, sir -- 18 MR. SHAPLAND: Excuse me. 19 This is a message to the court 20 reporter. We should have folks 21 who are on the phone who are 22 interposing objections identify 23 themselves, because I'm reading a 24 transcript here and the objections</p>	<p style="text-align: right;">Page 104</p> <p>1 thought you were going to first 2 ask -- you have to establish -- 3 MR. PIFKO: I'm -- I'm 4 working on that, Bob. You've got 5 to let me -- you've got to let me 6 do that. You've got to stop 7 interrupting me. 8 MR. NICHOLAS: Well, I'm 9 just -- 10 MR. CIULLO: Can you please 11 just ask if he attended this 12 presentation? 13 MR. PIFKO: I'm getting 14 there. You guys -- you can't ask 15 the questions for me, okay? Stop. 16 All of you. 17 MR. CIULLO: Then ask the 18 proper question. 19 MR. PIFKO: I'm going to 20 mute the phone if you're going to 21 do that, because you're 22 interrupting the deposition. 23 BY MR. PIFKO: 24 Q. Okay. Sir, I'm trying to</p>
<p style="text-align: right;">Page 103</p> <p>1 are not being attributed to 2 whoever is the party. 3 THE COURT REPORTER: Thank 4 you. 5 I'm trying not to interrupt 6 by asking everybody who they're 7 speaking -- who's speaking. I'm 8 trying to be less obtrusive. 9 BY MR. PIFKO: 10 Q. Okay. Sorry all the lawyer 11 mumbo-jumbo here. I'm just trying to ask 12 you some questions about this meeting. 13 So you see that this is a 14 meeting that was -- on the first page it 15 took place at AmerisourceBergen offices 16 in Chesterbrook on October 22, 2012. 17 Okay. 18 Then I had you look at the 19 third page, and it's got participants. 20 Okay. Do you see that? 21 A. Yes. 22 Q. Do -- do you know who Nancy 23 Baran is at Actavis? 24 MR. NICHOLAS: Hold on. I</p>	<p style="text-align: right;">Page 105</p> <p>1 ask -- 2 MR. CIULLO: You're not 3 going to mute the phone. 4 BY MR. PIFKO: 5 Q. -- do you know who -- do you 6 know who Nancy Baran is? 7 A. Other than what I'm reading 8 on here -- 9 MR. CIULLO: Objection. 10 BY MR. PIFKO: 11 Q. Do you know who Michael 12 Clarke is? 13 MR. NICHOLAS: Objection. 14 Same objection. 15 MR. CIULLO: Objection. 16 THE WITNESS: Other than 17 reading what's on the agenda. 18 BY MR. PIFKO: 19 Q. Do you know who John Duff 20 is? 21 MR. NICHOLAS: Same 22 objection. 23 MR. CIULLO: Objection. 24 THE WITNESS: Other than</p>

<p style="text-align: right;">Page 106</p> <p>1 reading what's on the agenda. 2 BY MR. PIFKO: 3 Q. Okay. And you said Steve 4 Mays, was he your boss in 2012 or was 5 he -- 6 MR. NICHOLAS: Same 7 objection. 8 MR. CIULLO: Objection. 9 BY MR. PIFKO: 10 Q. -- someone who's equal at 11 your level at that time? 12 A. I don't know that he was my 13 boss, but he was above me in terms of the 14 hierarchy of the department. 15 Q. Okay. And so my question, 16 having reviewed this meeting participant 17 slide and seeing the first page, do you 18 now recall attending this meeting at your 19 offices where Actavis presented to you? 20 A. I don't recall the meeting, 21 no. 22 Q. Do you dispute that the 23 meeting occurred? 24 MR. NICHOLAS: Object to the</p>	<p style="text-align: right;">Page 108</p> <p>1 and you are telling him things. 2 MR. CIULLO: You're breaking 3 the deposition protocol. 4 MR. PIFKO: I'm not. 5 MR. NICHOLAS: We can excuse 6 him if you want to argue about it. 7 MR. PIFKO: We don't need to 8 argue. Your objection is clearly 9 noted. Okay. And all you're 10 doing is interrupting the 11 witness -- interrupting the 12 questioning, and you're biasing 13 the witness's testimony because 14 you're providing speaking 15 objections and explaining things 16 that, you know, are infecting what 17 he's saying. 18 MR. NICHOLAS: I disagree 19 with that. We're just trying to 20 figure out if he's ever seen the 21 document or whether he went to the 22 meeting. It sounds like the 23 answer to both questions is no, 24 but you should ask.</p>
<p style="text-align: right;">Page 107</p> <p>1 form. 2 MR. CIULLO: Objection. 3 THE WITNESS: I can only go 4 on what's in front of me. So I 5 assume the meeting went forward. 6 BY MR. PIFKO: 7 Q. Do you remember Actavis 8 presenting certain information to you 9 about customers of Amerisource and 10 volumes of products? 11 MR. NICHOLAS: Objection. 12 MR. CIULLO: Objection. 13 MR. NICHOLAS: I think the 14 question needs to be asked, has he 15 seen the document before, because 16 you're trying to use the document. 17 That's what -- that's what the 18 rule says you have to do if you're 19 going to get around -- 20 MR. PIFKO: It doesn't say 21 that. It says the information. 22 So you -- again, you guys are 23 tainting the record, because 24 you're -- he's sitting right here</p>	<p style="text-align: right;">Page 109</p> <p>1 MR. CIULLO: In which case, 2 we need to stop using this 3 document. 4 MR. PIFKO: That's not what 5 he said. That's not what he said. 6 MR. CIULLO: It's a 7 confidential document. It could 8 have come from Allergan. You did 9 not get permission from Allergan. 10 BY MR. PIFKO: 11 Q. You said, "I assume the 12 meeting went forward." Do you recall 13 saying that? 14 A. Yes, I do. 15 Q. Okay. So you agree you had 16 this meeting, correct? 17 MR. NICHOLAS: Object to the 18 form. 19 MR. CIULLO: Objection. 20 MR. PIFKO: Stop. That's 21 all you need to say. You guys, 22 stop, seriously. You are 23 infecting the testimony. I just 24 read off the realtime. He said,</p>

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<p>1 "I assume the meeting went 2 forward." I asked him, "Do you 3 agree?" He said, "Yes." 4 BY MR. PIFKO: 5 Q. Okay, sir. Thank you. 6 MR. NICHOLAS: Then you 7 asked another question. I 8 objected to that because that's an 9 unfair question. That what -- I 10 objected to the second question, 11 Mark, not the first. 12 BY MR. PIFKO: 13 Q. Okay. So you agree this 14 meeting went forward, correct? 15 MR. NICHOLAS: Objection. 16 Inappropriate question. 17 MR. CIULLO: Objection. 18 THE WITNESS: I believe I 19 said I assume it went forward. 20 BY MR. PIFKO: 21 Q. Okay. Do you recall having 22 this PowerPoint presentation provided to 23 you in connection with this meeting? 24 MR. CIULLO: Objection.</p>	<p>1 witness's testimony by guiding him 2 on what to say in response to this 3 question. And you can't unring 4 that bell. If we have a dispute 5 about that -- 6 MR. CIULLO: That's not true 7 at all. There's a protocol for 8 doing things and we have to follow 9 it. 10 MR. PIFKO: If we have a 11 dispute about this, you guys 12 screwed up the record. And now we 13 won't get a fair assessment of the 14 situation. You should have let me 15 to ask the questions that I needed 16 to ask. Anyway, let's move on. 17 MR. NICHOLAS: We'll 18 disagree with your 19 characterization for the record, 20 because I think it's inaccurate. 21 BY MR. PIFKO: 22 Q. Have you heard of the idea 23 of a threshold? 24 A. Yes.</p>
Page 111	Page 113
<p>1 Asked and answered. 2 THE WITNESS: I again have 3 no recollection of the meeting 4 itself. So I don't know if I've 5 seen this document before or not. 6 BY MR. PIFKO: 7 Q. Do you dispute that the 8 information provided in this document was 9 presented to you? 10 MR. NICHOLAS: Object to the 11 form of the question. 12 MR. CIULLO: Objection. 13 THE WITNESS: That would 14 have to assume that I was there. 15 And I just have no recollection of 16 the meeting. 17 BY MR. PIFKO: 18 Q. Okay. We'll put this 19 document aside for now. 20 MR. PIFKO: I'll note my 21 objection that I think defendants' 22 counsel on both the phone and 23 AmerisourceBergen's counsel here 24 have infected and biased the</p>	<p>1 Q. What's a threshold? 2 A. A threshold is an internally 3 generated number that is going to trigger 4 further review of a customer's order. 5 Q. Did AmerisourceBergen use 6 thresholds as part of its order 7 monitoring program? 8 A. Yes. 9 Q. How did AmerisourceBergen 10 use thresholds in its order monitoring 11 program? 12 A. The -- I have to present it 13 in -- I can't present it in a couple 14 sentences. But all of the products that 15 we sell, all of the controlled substance 16 products that we sell to customers are 17 placed -- or at the time were in drug 18 families. 19 Thresholds were arrived by 20 way of -- thresholds were arrived through 21 analysis of the customer's purchasing 22 volume. 23 Averages were taken of the 24 amount of products and the dollars spent.</p>

<p style="text-align: right;">Page 114</p> <p>1 And those averages were then used to help 2 to establish the actual customer 3 threshold for a particular product. 4 Q. And if you exceeded the 5 threshold under AmerisourceBergen's order 6 monitoring program, then what happened? 7 A. The order would be flagged 8 for review. 9 Q. And whose job was it to 10 review the order? 11 A. There were several. The 12 review started at the distribution center 13 for low risk products. High risk 14 products were forwarded to the diversion 15 control team at the corporate 16 headquarters, and those personnel 17 reviewed the order. 18 Q. Was there training provided 19 to the distribution center associates as 20 to what they were supposed to look at 21 when they were evaluating an order that 22 exceeded the threshold? 23 A. Yes. 24 Q. And what was the nature of</p>	<p style="text-align: right;">Page 116</p> <p>1 frame when this occurred? Was this 2 always a function of the order monitoring 3 program during your tenure? 4 A. Yes, it was. 5 Q. And this operated the same 6 way as long as you were in the diversion 7 control functions? 8 A. There were changes to some 9 of the programs. We talked earlier about 10 SAP and systems of that sort. I believe 11 the SAP component was rolled out at some 12 point during my tenure. 13 Q. Okay. Other than that 14 change, were there any other changes that 15 you were aware of during your tenure? 16 MR. NICHOLAS: Object to the 17 form. 18 THE WITNESS: No. None that 19 I'm aware of. 20 BY MR. PIFKO: 21 Q. Were customers informed of 22 what their thresholds were? 23 A. It was not our policy to 24 tell customers their thresholds.</p>
<p style="text-align: right;">Page 115</p> <p>1 that training? 2 A. Somewhere within these 3 documents is a PowerPoint that I believe 4 was centered on the distribution center 5 personnel. 6 Q. And was that an ongoing 7 training session that you would provide, 8 or how was that provided? 9 A. My -- my recollection is 10 that it was mandated annually, and then 11 obviously for new personnel coming 12 into -- into the position. 13 Q. As far as the definition of 14 a high risk product, was that something 15 that was clearly defined in the training? 16 A. Clearly defined to the 17 extent that the products were named, yes. 18 Q. Okay. And so, if something 19 was a high risk product and it exceeded 20 the threshold, then it would go to the 21 CSRA for further review? 22 A. Correct. 23 Q. And when we are talking 24 about this procedure, what was the time</p>	<p style="text-align: right;">Page 117</p> <p>1 Q. Do you know why it was your 2 policy not to tell your customers their 3 thresholds? 4 A. Well, it would give the 5 customer the opportunity to try to 6 manipulate the system to their advantage. 7 Q. And you would not want 8 customers to manipulate the system to 9 their advantage, correct? 10 A. Correct. 11 Q. So by keeping the thresholds 12 within the exclusive knowledge of 13 AmerisourceBergen, you could -- that was 14 one way that you would prevent customers 15 from manipulating the system, is that 16 correct? 17 MR. NICHOLAS: Object to the 18 form. 19 THE WITNESS: One way, yes. 20 BY MR. PIFKO: 21 Q. Do you know if the DEA told 22 AmerisourceBergen not to disclose 23 thresholds to its customers? 24 A. I -- I don't know that they</p>

<p style="text-align: right;">Page 118</p> <p>1 said that.</p> <p>2 Q. If I told you that Chris</p> <p>3 Zimmerman had said that, would you</p> <p>4 disagree that that was something that the</p> <p>5 DEA told the company?</p> <p>6 MR. NICHOLAS: Object to the</p> <p>7 form.</p> <p>8 THE WITNESS: I don't know</p> <p>9 the answer to that question.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. I'll show you a document. I</p> <p>12 was trying to streamline the process</p> <p>13 here. Give me a second.</p> <p>14 (Document marked for</p> <p>15 identification as Exhibit</p> <p>16 ABDC-Hazewski-5.)</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. I'm handing you what's</p> <p>19 marked as Exhibit 5.</p> <p>20 Tell me when you're done.</p> <p>21 A. Okay.</p> <p>22 Q. For the record, Exhibit 5 is</p> <p>23 a couple page e-mail Bates labeled</p> <p>24 ABDCMDL00285348 through 85350.</p>	<p style="text-align: right;">Page 120</p> <p>1 are correct."</p> <p>2 He says, "One, it's not</p> <p>3 illegal to divulge threshold levels.</p> <p>4 Two, DEA has told us we should not</p> <p>5 divulge threshold levels."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Do you have any</p> <p>9 recollection that DEA told</p> <p>10 AmerisourceBergen not to divulge</p> <p>11 threshold levels?</p> <p>12 A. I had no discussions with</p> <p>13 them where they said anything of that</p> <p>14 sort.</p> <p>15 Q. Do you recall Mr. Zimmerman</p> <p>16 communicating this to you?</p> <p>17 A. Not specifically other than</p> <p>18 through this e-mail.</p> <p>19 Q. You agree that he did</p> <p>20 communicate it to you in this e-mail?</p> <p>21 A. I'm copied on the e-mail, so</p> <p>22 yes.</p> <p>23 Q. And then he says, "Three,</p> <p>24 ABC's policy is not to divulge</p>
<p style="text-align: right;">Page 119</p> <p>1 A. I'm done reviewing.</p> <p>2 Q. Okay. Do you recall the</p> <p>3 discussions reflected here in this</p> <p>4 e-mail?</p> <p>5 A. I recall some discussions</p> <p>6 about what it's alleged the other</p> <p>7 wholesale distributor was doing.</p> <p>8 Q. Okay. Well, let's look at</p> <p>9 the -- the first page here.</p> <p>10 MR. NICHOLAS: When you say</p> <p>11 the first page, do you mean from</p> <p>12 the back or the front -- you</p> <p>13 mean --</p> <p>14 MR. PIFKO: The front. The</p> <p>15 first page, the top of the --</p> <p>16 285348.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. Are you there?</p> <p>19 A. Yeah.</p> <p>20 Q. Okay. In the middle is an</p> <p>21 e-mail from Chris Zimmerman to Steve Mays</p> <p>22 and you are copied. Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. And he says, "All statements</p>	<p style="text-align: right;">Page 121</p> <p>1 thresholds." Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. He then says, "Since</p> <p>4 ABC's position can't get any worse." Do</p> <p>5 you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Do you have any</p> <p>8 understanding when he said this to you,</p> <p>9 what he meant by that?</p> <p>10 A. I have no idea.</p> <p>11 Q. Okay. He says, "My</p> <p>12 recommendation would be to send a formal</p> <p>13 letter to DEA outlining the issue and</p> <p>14 requesting a formal opinion."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Do you have any recollection</p> <p>18 about whether a formal letter was ever</p> <p>19 sent to the DEA about disclosing</p> <p>20 threshold levels?</p> <p>21 A. I do not.</p> <p>22 Q. Okay. It's your</p> <p>23 understanding that the policy at ABDC has</p> <p>24 always been not to divulge threshold</p>

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1 levels?
2 A. Yes.
3 Q. You are not aware of any
4 change after this where they then said
5 you could divulge threshold levels to
6 customers?
7 A. I am not aware of such a
8 change.
9 Q. If there was a change, given
10 your role in the company, it's something
11 you would have been aware of, correct?
12 MR. NICHOLAS: Object to the
13 form. Go ahead.
14 THE WITNESS: Yes.
15 BY MR. PIFKO:
16 Q. Are you aware -- from time
17 to time was it the company's practice to
18 send formal letters to DEA asking for
19 their position on -- on certain issues?
20 A. I wasn't involved in
21 composing letters of that kind. I -- I
22 don't know if they communicated. I'm
23 sure there's been questions asked but
24 beyond that I couldn't say.

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1 Q. Okay. Are you aware, other
2 than the discussion here about doing that
3 in this context, are you aware of any
4 discussion about doing that kind of thing
5 in any other context?
6 A. No.
7 (Document marked for
8 identification as Exhibit
9 ABDC-Hazewski-6.)
10 (Document marked for
11 identification as Exhibit
12 ABDC-Hazewski-7.)
13 BY MR. PIFKO:
14 Q. I'm going to hand you two
15 exhibits, what's marked as Exhibit 6 and
16 Exhibit 7.
17 For the record, Exhibit 6 is
18 a one-page e-mail Bates labeled
19 ABDCMDL00282490.
20 And Exhibit 7 is a document
21 that was attached to that, was produced
22 in native, Bates labeled ABDCMDL00282491.
23 Take a minute to review
24 those and let me know when you're done.

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1 A. I've reviewed.
2 Q. Okay. Do you recall sending
3 e-mails to Walgreens people?
4 A. Yes.
5 Q. Okay. This is an e-mail
6 dated April 8, 2014, from you to a whole
7 host of people at Walgreens. Do you see
8 that?
9 A. Yes.
10 Q. Okay. And you say, "Team
11 WAG, find attached some data that I
12 believe could be the basis for part of
13 our discussion. Briefly, the first tab
14 is all Walgreens locations that had
15 Schedule II controlled substance order
16 lines flagged by the order monitoring
17 program, sorted largest (most lines) to
18 smallest. We can discuss further
19 tomorrow."
20 Do you see that?
21 A. Yes.
22 Q. Do you agree that you sent
23 them the attached spreadsheet?
24 A. Yes.

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1 Q. If you look at that
2 spreadsheet, among, in addition to
3 disclosing the information that you
4 discuss in your e-mail. If you look, one
5 of the columns is the threshold.
6 Do you see that?
7 A. Yes.
8 Q. And then it lists the
9 threshold for each location. Do you see
10 that?
11 A. Yes.
12 Q. Is that correct?
13 A. That's correct.
14 Q. If it was against the
15 company's policy and the DEA told you not
16 to share thresholds, why were you sending
17 them to Walgreens?
18 A. Well, the information that
19 was sent, and I believe the basis for
20 this message, was a request received from
21 Walgreens' pharmacy integrity unit, which
22 that unit are the people who are listed
23 on this e-mail.
24 Their pharmacy integrity

<p style="text-align: right;">Page 126</p> <p>1 group are their version of our diversion 2 control team. So they monitored their 3 internal customer orders. And we worked 4 on a regular basis hand in hand with that 5 group with the -- obviously, the goal 6 jointly to help monitor the customer 7 orders generated by their stores. 8 They had made a request at 9 some point that orders submitted by their 10 stores that breach a threshold just be 11 canceled and not reviewed any further, 12 that they would not like those orders to 13 be filled. 14 So this -- I can't say this 15 for certain. But I believe the sending 16 of this information was in furtherance of 17 their request and our joint efforts to 18 work together to try to, you know, 19 achieve our goals. 20 Q. Was it a regular occurrence 21 for you to send data that included the 22 thresholds and order monitoring program 23 details to Walgreens? 24 A. A regular occurrence, no.</p>	<p style="text-align: right;">Page 128</p> <p>1 Q. I'm handing you what's 2 marked as Exhibit 8. For the record, 3 it's multiple page e-mail Bates-labeled 4 ABDCMDL00280818 through 822. Take a 5 minute to review that and let me know 6 when you're done. 7 A. Are these one document? 8 Q. You should only have one 9 copy. Maybe I inadvertently gave you 10 counsel's copy. 11 A. I see. 12 MR. BREWER: I'm sorry. 13 Could you please repeat the Bates 14 number? 15 MR. PIFKO: ABDCMDL00280818 16 through 280822. 17 MR. BREWER: Thank you. 18 THE WITNESS: I've reviewed. 19 BY MR. PIFKO: 20 Q. Okay. Do you recall the 21 discussion reflected in these e-mails? 22 A. Some. It seems at the 23 beginning of the e-mail thread, I wasn't 24 copied, but at some point I was.</p>
<p style="text-align: right;">Page 127</p> <p>1 Q. Did you do it on more than 2 one occasion? 3 A. This is the only one I 4 recall. I can't say for certain that 5 there were other occasions. 6 Q. Do you agree that, looking 7 back at Exhibit 7, it also states the 8 overage percentage for each store for the 9 item being listed? 10 A. Yes, I see that. 11 Q. And it provides the overage 12 in dosage units as well, correct? 13 A. I'm having trouble reading 14 that. But, yes, I see it. 15 Q. It's the column -- it's the 16 second-to-last column. 17 A. Yeah, I see it now. 18 Q. And Walgreens was a customer 19 of AmerisourceBergen's, correct? 20 A. Correct. 21 (Document marked for 22 identification as Exhibit 23 ABDC-Hazewski-8.) 24 BY MR. PIFKO:</p>	<p style="text-align: right;">Page 129</p> <p>1 So from there forward, yes. 2 Q. You are copied at the top of 3 the e-mail, correct? On the -- on the 4 first page, 818? 5 A. Yes. 6 Q. And therefore, you received 7 all the information below, correct? 8 A. If that is how the e-mail 9 system works, then yes. 10 Q. Okay. What's the Walgreens 11 C2 playbook? 12 A. My understanding -- 13 MR. BREWER: This is Matt 14 Brewer. Objection. 15 THE WITNESS: My 16 understanding is a -- a playbook 17 is essentially a listing of tasks 18 and the persons responsible for 19 those tasks when onboarding a 20 large customer similar to 21 Walgreens. 22 BY MR. PIFKO: 23 Q. Among other things, we 24 talked about the Form 590, correct?</p>

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1 A. Yes.
2 Q. That's something that you
3 get for new customers, correct?
4 A. Correct.
5 Q. It was your policy to get
6 that for new customers?
7 A. It was.
8 Q. As of 2007?
9 A. I don't know at what point I
10 became aware of what a 590 was. But I
11 believe there was a similar form in use
12 back then.
13 Q. It is a long-standing
14 policy?
15 A. Yes.
16 Q. If you go to Page 280820.
17 It's those little numbers on the bottom
18 right-hand corner. I'm asking you to go
19 to 280820. Tell me when you're there.
20 A. Yeah, I'm there.
21 Q. Okay. There's an e-mail at
22 the bottom from Steve Mays to Chris
23 Zimmerman dated March 28, 2013. Do you
24 see that?

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1 A. Yes.
2 Q. Steve says: "I don't think
3 we ever considered getting 590s for every
4 account."
5 Do you see that?
6 A. Yes.
7 Q. Do you have an understanding
8 about why he's saying despite the
9 company's policy about 590, he doesn't
10 want 590 --
11 MR. BREWER: Objection.
12 MR. PIFKO: I'm not even
13 done with the question.
14 BY MR. PIFKO:
15 Q. He doesn't want 590s for
16 every account?
17 MR. NICHOLAS: I'll object
18 to the form of the question.
19 You're reading the first sentence
20 of a much longer e-mail and I
21 believe the question is not --
22 MR. PIFKO: Okay. Again,
23 that's a speaking objection --
24 that's a speaking objection. You

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1 can say form. You can say your
2 foundational kind of objection.
3 You don't really need to say that,
4 but you can say that. But you
5 cannot do what you're doing.
6 MR. NICHOLAS: Well, I'll
7 object to the form of the question
8 for the reason that I stated.
9 MR. PIFKO: Okay.
10 Understood. Form objection is
11 noted for all defendants. Thank
12 you.
13 THE WITNESS: So can you
14 repeat your question?
15 BY MR. PIFKO:
16 Q. Yeah, I know it's hard to
17 answer a question when all these lawyers
18 are speaking and explaining things and
19 making arguments.
20 MR. NICHOLAS: We just don't
21 want things taken out of context.
22 For the record, I know
23 you're -- you're focused on
24 getting a clean record. And so am

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1 I.
2 BY MR. PIFKO:
3 Q. I'm going to ask you the
4 question again.
5 You see the first sentence
6 here. Steve says to Chris Zimmerman: "I
7 don't think we ever considered getting
8 590s for every account."
9 Do you see that?
10 A. Yes.
11 Q. Okay. And so my question
12 is, do you have an understanding as to
13 why Steve is saying that to Chris despite
14 the company's policies concerning
15 obtaining 590s for new customers?
16 MR. NICHOLAS: Object to the
17 form of the question.
18 MR. BREWER: I'll join.
19 THE WITNESS: I don't know
20 why Steve would -- was saying what
21 he said.
22 BY MR. PIFKO:
23 Q. That seems inconsistent with
24 the company's policy, correct?

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1 MR. NICHOLAS: Object to the
2 form of the question.
3 THE WITNESS: My
4 recollection is that as it applied
5 to chain customers, that
6 historically 590s were not gotten
7 for every individual store listed
8 in the chain.
9 Usually the pertinent
10 information was applied to someone
11 who was responsible for overseeing
12 that customer's individual chain
13 locations, meaning within that
14 organization.
15 But -- so in the case of
16 Walgreens for example, there were,
17 I believe, 8,000 plus pharmacies.
18 So that perhaps is an
19 explanation for why Steve said
20 what he did.
21 BY MR. PIFKO:
22 Q. He says instead -- Steve
23 says instead he's going to have -- he
24 says, "I have Ed working on a one-page

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1 abbreviated 590."
2 Do you see that?
3 A. Yes.
4 Q. Do you recall working on
5 that?
6 A. I do not.
7 Q. Another thing he says here,
8 a little bit in the middle paragraph
9 here, "One thing we need immediately on
10 or before April 9th, is the de-identified
11 dispensing data for Oxycodone for the 225
12 initial stores."
13 Do you see that?
14 A. Yes.
15 Q. If you go to the first page
16 of the e-mail, there's another comment
17 about where Steve is writing to you. And
18 he's again asking to ask Walgreens for
19 the de-identified dispensing data per
20 store.
21 Do you see that?
22 A. Yes.
23 Q. Do you know why he's asking
24 for that data?

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1 MR. NICHOLAS: I'll object
2 to the form of the question and
3 the jumping around in a -- in a
4 lengthy e-mail chain. And picking
5 out a sentence here and there.
6 Go ahead.
7 THE WITNESS: The question
8 is why he would ask for that data?
9 BY MR. PIFKO:
10 Q. Why did you need that data?
11 MR. NICHOLAS: Object to the
12 form.
13 THE WITNESS: As part of our
14 onboarding due diligence process,
15 we wanted to get an idea of what
16 type of volume particular
17 locations do as compared to other
18 Walgreens stores.
19 BY MR. PIFKO:
20 Q. Was it your general practice
21 to get dispensing data for Oxycodone from
22 any -- any new customer?
23 MR. NICHOLAS: Object to the
24 form.

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1 THE WITNESS: We would
2 not -- we would ask the question
3 as to what their usage was. We
4 wouldn't necessarily get
5 dispensing data unless we felt it
6 was necessary to clarify the
7 numbers they are giving us.
8 BY MR. PIFKO:
9 Q. Okay. So you would ask --
10 it was your general practice to ask for
11 it on occasion if you -- if you needed
12 clarity on dispensing practices from any
13 customer?
14 A. Correct.
15 Q. And why was it that you
16 needed it for Walgreens?
17 A. Why -- I'm sorry, can you
18 repeat?
19 Q. You needed -- you needed
20 clarity about data from Walgreens?
21 A. Yeah. Given the number of
22 locations, we wanted to make certain we
23 had a good grasp of who was doing what in
24 terms of volume.

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1 Q. And to your knowledge, was
2 that data provided to you?
3 A. To my knowledge, it was,
4 yes.
5 Q. Do you know how far back it
6 went, what was the time period it
7 covered?
8 A. I do not know.
9 Q. The next sentence here --
10 we're on Page 280820 -- Steve is saying
11 to Chris: "I'm trying to think of
12 everything we can do to prevent having a
13 bunch of orders reported to DEA and
14 held."
15 Do you see that?
16 A. Yes.
17 Q. Do you know why Steve is
18 trying to implement practices at
19 AmerisourceBergen to avoid reporting
20 Walgreens orders to DEA and holding them?
21 MR. NICHOLAS: Object to the
22 form of the question.
23 THE WITNESS: I don't know
24 why he made that statement.

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1 BY MR. PIFKO:
2 Q. Do you recall discussing
3 with Steve or Chris upon receiving this
4 e-mail the idea that you wanted to avoid
5 reporting orders from Walgreens to DEA?
6 MR. NICHOLAS: Object to the
7 form of the question.
8 MR. BREWER: I'll join.
9 THE WITNESS: I don't recall
10 any such conversation.
11 BY MR. PIFKO:
12 Q. Did you ever speak up upon
13 receiving this e-mail and say, why, why
14 are we going to try to avoid reporting
15 orders to DEA for Walgreens?
16 MR. NICHOLAS: Object to the
17 form.
18 MR. BREWER: I'll join.
19 THE WITNESS: Not to my
20 recollection.
21 BY MR. PIFKO:
22 Q. Do you think it's
23 appropriate to implement policies to
24 prevent having a bunch of orders reported

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1 to DEA for any customer?
2 MR. NICHOLAS: Object to the
3 form of the question.
4 THE WITNESS: We only know
5 the context of what's in the
6 e-mail. I just don't know what
7 discussions Chris and Steve may
8 have had outside of my presence.
9 I just can't answer that
10 question.
11 BY MR. PIFKO:
12 Q. I'm not asking about that.
13 That wasn't my question about this --
14 that statement.
15 I asked you if you think
16 it's appropriate to implement policies to
17 prevent having orders reported to DEA for
18 any customer.
19 MR. NICHOLAS: Object to the
20 form of the question.
21 THE WITNESS: It -- it's
22 just simply not our policy to do
23 anything that would divulge that
24 kind of information or --

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1 certainly we have never undertaken
2 any sort of action that would --
3 that was geared towards preventing
4 a customer from hitting the order
5 monitoring program. It's simply
6 not done.
7 BY MR. PIFKO:
8 Q. You see here the next
9 sentence on that same page, 280820, it
10 says: "The more data Walgreens can share
11 with us the better off we will all be."
12 A. Yes, I see that.
13 Q. Do you have an understanding
14 about what that's about?
15 MR. NICHOLAS: Object to the
16 form.
17 MR. BREWER: I'll join.
18 THE WITNESS: No, I can only
19 suggest that it -- it's just --
20 obviously onboarding any customer,
21 we want to know as much about --
22 in fact, we're mandated to know
23 your customer through our due
24 diligence program. And I see this

<p style="text-align: right;">Page 142</p> <p>1 as being part of that.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. When you talk about being</p> <p>4 mandated to know your customer, what are</p> <p>5 you supposed to know about your customer</p> <p>6 through that mandate?</p> <p>7 A. Everything there is to know</p> <p>8 about a pharmacy customer, including</p> <p>9 their business model, who they service,</p> <p>10 obviously their license numbers, their --</p> <p>11 every -- every facet of what you would</p> <p>12 expect to know from a business partner,</p> <p>13 you try to gather through that process.</p> <p>14 Q. You'd want to know about all</p> <p>15 the red flags of diversion that we</p> <p>16 discussed in your presentation, if those</p> <p>17 were potentially occurring at any</p> <p>18 customer, correct?</p> <p>19 MR. NICHOLAS: Object to the</p> <p>20 form.</p> <p>21 MR. BREWER: I'll join.</p> <p>22 THE WITNESS: If someone</p> <p>23 reported indications of diversion,</p> <p>24 we would treat that information</p>	<p style="text-align: right;">Page 144</p> <p>1 know how we would obtain that kind</p> <p>2 of information, but yeah.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. And through the</p> <p>5 know-your-customer mandate, that's the</p> <p>6 kind of information that you'd want to</p> <p>7 know through that process, correct?</p> <p>8 MR. NICHOLAS: Object to the</p> <p>9 form.</p> <p>10 THE WITNESS: I don't know</p> <p>11 the intention of that is to get</p> <p>12 that granular, that is at the</p> <p>13 point of onboarding, but it's</p> <p>14 important information, sure.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. You definitely want to know</p> <p>17 if that was occurring at a customer's</p> <p>18 location, if you could though, right?</p> <p>19 A. Yes.</p> <p>20 Q. And how about if they had</p> <p>21 unreported theft occurring at their</p> <p>22 pharmacy? Would you want to know about</p> <p>23 that?</p> <p>24 A. Yes. But I have to add that</p>
<p style="text-align: right;">Page 143</p> <p>1 regardless of who the customer is,</p> <p>2 the same we would for any</p> <p>3 customer.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. And you'd want to know, like</p> <p>6 we talked about, if there were people</p> <p>7 using drugs at the facility. Is that</p> <p>8 something that you'd want to know?</p> <p>9 MR. NICHOLAS: Object to the</p> <p>10 form.</p> <p>11 Go ahead.</p> <p>12 THE WITNESS: Well, I would</p> <p>13 want to know it, yes. And I</p> <p>14 presume those responsible for</p> <p>15 monitoring such things would want</p> <p>16 to know it.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. How about if the pharmacy is</p> <p>19 selling pills to people who don't have</p> <p>20 valid prescriptions? Is that something</p> <p>21 that you'd want to know?</p> <p>22 MR. NICHOLAS: Object to the</p> <p>23 form.</p> <p>24 THE WITNESS: Yes. I don't</p>	<p style="text-align: right;">Page 145</p> <p>1 everything that you're mentioning are</p> <p>2 kind of out of the purview of the</p> <p>3 wholesale distributor. There are other</p> <p>4 people in the closed system that are</p> <p>5 responsible for different areas. And I</p> <p>6 think this goes beyond what's required of</p> <p>7 a wholesale distributor.</p> <p>8 Q. Would you want to ask if</p> <p>9 those kinds of activities are occurring</p> <p>10 at your customers' locations as part of</p> <p>11 your due diligence?</p> <p>12 MR. NICHOLAS: Object to the</p> <p>13 form.</p> <p>14 THE WITNESS: If there is</p> <p>15 additional indications that would</p> <p>16 point in that direction, then the</p> <p>17 question would need to be asked.</p> <p>18 MR. NICHOLAS: Mark, is it a</p> <p>19 good time for a break?</p> <p>20 MR. PIFKO: Yeah, just one</p> <p>21 more quick thing.</p> <p>22 MR. NICHOLAS: We're at the</p> <p>23 lunch hour.</p> <p>24 (Document marked for</p>

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1 identification as Exhibit
2 ABDC-Hazewski-9.)
3 BY MR. PIFKO:
4 Q. Are you aware that Walgreens
5 paid an \$80 million fine for violating
6 the Controlled Substances Act?
7 MR. BREWER: Objection.
8 THE WITNESS: I'm aware
9 through media reports, yes.
10 BY MR. PIFKO:
11 Q. Is that something that you
12 discussed when you were doing business
13 with them?
14 MR. NICHOLAS: Object to the
15 form.
16 MR. BREWER: I'll join.
17 THE WITNESS: Those -- I'm
18 sure there were discussions of
19 that sort, but not at my level.
20 BY MR. PIFKO:
21 Q. I've handed you what's
22 marked as Exhibit 9. Do you see it's a
23 press release from the United States
24 Attorney's Office for the Southern

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1 District of Florida announcing Walgreens'
2 payment of an \$80 million fine for civil
3 penalties under the Controlled Substance
4 Act?
5 Do you see that?
6 A. Yes.
7 Q. It's dated June 11, 2013.
8 Do you see that?
9 A. Yes.
10 Q. And do you agree that this
11 announcement is after the e-mails in
12 March of 2013 that we were just
13 discussing in Exhibit 8. Agree?
14 A. Yes.
15 MR. BREWER: Do you have a
16 Bates number for this exhibit?
17 MR. PIFKO: No. It's just a
18 press release you can download it
19 from the United States Department
20 of Justice.
21 BY MR. PIFKO:
22 Q. Were you aware that the
23 activities discussed in Exhibit 9 were
24 occurring at Walgreens facilities?

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1 MR. NICHOLAS: I'll object
2 to the form of the question.
3 MR. BREWER: Objection.
4 MR. NICHOLAS: He's never
5 seen the document, and he said
6 there were no discussions at his
7 level about these issues.
8 MR. PIFKO: Again, speaking
9 objections.
10 MR. NICHOLAS: Well, you
11 can't --
12 MR. PIFKO: Form,
13 foundation. Form, foundation.
14 MR. NICHOLAS: You can't
15 just ask misleading questions.
16 Come on. I object.
17 MR. BREWER: I'll also
18 object to the form and foundation.
19 MR. NICHOLAS: Go ahead.
20 THE WITNESS: Again, can you
21 could you repeat?
22 BY MR. PIFKO:
23 Q. Well, let's just -- let's be
24 specific here. Let's go to Page 2.

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1 First paragraph, part way through.
2 First, "The Jupiter distribution center
3 failed to comply with the DEA regulations
4 that required it to report to the DEA
5 suspicious prescription drug orders that
6 it received from Walgreens' retail
7 pharmacies."
8 Do you see that?
9 A. Yes.
10 Q. Were you aware that the
11 Jupiter distribution center failed to
12 comply with suspicious order
13 requirements?
14 MR. NICHOLAS: I'll object
15 to the form. The -- I've never
16 seen this document before, but you
17 can't ask a question that
18 misleading. It says "Walgreens'
19 alleged failure." You have to at
20 least be fair in asking --
21 MR. PIFKO: It does not say
22 that. The Jupiter -- I read the
23 quote. "The Jupiter distribution
24 center failed to comply with DEA

<p style="text-align: right;">Page 150</p> <p>1 regulations that required it to 2 report to the DEA suspicious 3 prescription drug orders that it 4 received from Walgreens' retail 5 pharmacies." 6 MR. NICHOLAS: Can you read 7 the next -- 8 MR. PIFKO: I'm reading that 9 quote. 10 MR. NICHOLAS: Read the 11 first -- read the first four -- 12 MR. PIFKO: I'm reading that 13 quote. 14 MR. NICHOLAS: -- five words 15 of the next sentence. 16 MR. PIFKO: Stop. Stop. 17 Stop. Stop. Form, foundation. 18 That's all you are allowed to do 19 here. Okay. Stop. 20 MR. NICHOLAS: You just -- 21 MR. PIFKO: Stop. We're 22 going to -- I'm going to bring him 23 back. I'm going to bring all your 24 witnesses back. I'm going to</p>	<p style="text-align: right;">Page 152</p> <p>1 that. 2 MR. PIFKO: You're 3 apparently not able to comply with 4 the rules. And we need an 5 attorney who can. Okay. I'm 6 serious. I'm dead serious. 7 MR. NICHOLAS: You can't 8 tell me to stop defending him. 9 MR. PIFKO: Someone else at 10 Reed Smith can sit in here and do 11 it, because you apparently cannot 12 do it and comply with the law. 13 Okay. 14 MR. NICHOLAS: If you ask 15 questions that are 16 inappropriate -- 17 MR. PIFKO: You can say 18 form, foundation -- 19 MR. NICHOLAS: -- I will 20 continue to object. 21 MR. PIFKO: -- and you can 22 state your objections, but that's 23 all you can do. You cannot 24 provide speaking objections.</p>
<p style="text-align: right;">Page 151</p> <p>1 bring Mr. Zimmerman and Mr. May 2 back too, because you coached them 3 the whole time. Okay. We're not 4 doing this. 5 MR. NICHOLAS: If you ask 6 questions -- 7 MR. PIFKO: You are -- you 8 are biasing the testimony. Stop. 9 MR. NICHOLAS: You're -- 10 MR. PIFKO: If you want to 11 redirect, you can direct examine 12 him when it's your turn. Right 13 now, all you can say is form and 14 foundation. And absent that, if 15 you can't do that, you need to 16 stop defending him because you are 17 violating both the local rules and 18 the requirements in this case. 19 So you need to tone it down. 20 And you need to stop this right 21 now. Okay. 22 MR. NICHOLAS: You really 23 can't tell me to stop defending 24 him. It's not your place to do</p>	<p style="text-align: right;">Page 153</p> <p>1 Okay. If you can't do that you're 2 not going to be allowed to 3 participate in this case. We're 4 going to put all your deposition 5 transcripts in front of the court, 6 and we're going to show what you 7 did. 8 MR. NICHOLAS: That would be 9 okay. 10 MR. PIFKO: Okay. 11 MR. NICHOLAS: That really 12 would -- 13 MR. PIFKO: Because you're 14 biasing the testimony. You've 15 been doing it all day today. And 16 you did it at the last two 17 depositions that you did. Okay. 18 MR. NICHOLAS: I don't think 19 I've been doing it all day -- 20 MR. PIFKO: Apparently 21 that's your practice, and I don't 22 appreciate it. 23 MR. NICHOLAS: -- or 24 previously, but I've made my</p>

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1 objection. I stand by my
 2 objection. And now we can see if
 3 he can answer the question.
 4 MR. PIFKO: You're clearly
 5 disrupting the --
 6 MR. BREWER: I object to
 7 form and foundation as well. I'm
 8 Adam Brewer.
 9 MR. PIFKO: Again, people on
 10 the phone, you don't need to join
 11 in the objection. The orders in
 12 this case are very clear that one
 13 objection by any counsel is
 14 sufficient for all defendants.
 15 Okay. All you're doing when you
 16 do that is disrupting the
 17 deposition. Clearly that's your
 18 intent.
 19 BY MR. PIFKO:
 20 Q. Okay. I'm reading you
 21 again, sir. I'm sorry that everybody is
 22 disrupting this process here. But I'm
 23 trying to ask you questions, and I'm
 24 unable to do so without people trying to

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1 tell you will what to say and
 2 interrupting the flow of the questioning.
 3 So I'm going to try again here.
 4 Okay. We're on the second
 5 page here.
 6 It says: "First, the
 7 Jupiter distribution center failed to
 8 comply with DEA regulations that required
 9 it to report to the DEA suspicious
 10 prescription drug orders that it received
 11 from Walgreens' retail pharmacies."
 12 Do you see that?
 13 A. Yes, I do.
 14 MR. NICHOLAS: Object to the
 15 form of the question and
 16 suggestion that anyone is trying
 17 to tell anyone what to say.
 18 Go on.
 19 BY MR. PIFKO:
 20 Q. Were you aware that the
 21 Jupiter distribution center failed to
 22 comply with DEA regulations?
 23 MR. NICHOLAS: Object to the
 24 form and the foundation.

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1 THE WITNESS: In or around
 2 the time this press release was
 3 released, I became aware of it.
 4 BY MR. PIFKO:
 5 Q. How did you become aware of
 6 it?
 7 A. Through reading similar
 8 press releases from various agencies.
 9 Q. When you were onboarding
 10 Walgreens as a customer, did you
 11 undertake any effort to ensure that
 12 Walgreens was complying with DEA
 13 regulations?
 14 MR. NICHOLAS: Object to the
 15 form.
 16 THE WITNESS: I don't know
 17 at that time whether or not there
 18 were suspensions of their
 19 licenses. I just don't have
 20 enough information to be able to
 21 say.
 22 BY MR. PIFKO:
 23 Q. All I'm asking you is if you
 24 attempted to obtain information that

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1 would allow you to know if Walgreens was
 2 complying with DEA regulations.
 3 MR. NICHOLAS: Object to the
 4 form.
 5 THE WITNESS: I have no
 6 specific recollection of that.
 7 BY MR. PIFKO:
 8 Q. Let's go to the next
 9 paragraph, next full paragraph. It says
 10 "second" on there.
 11 "Second, the six retail
 12 pharmacies in Florida that received the
 13 suspicious drug shipments from the
 14 Jupiter distribution center in turn
 15 filled customer prescriptions that they
 16 knew or should have known were not for
 17 legitimate medical use."
 18 Do you see that?
 19 A. Yes.
 20 Q. Were you aware that
 21 Walgreens was sending prescriptions to
 22 pharmacies who were then filling
 23 prescriptions that they knew were not for
 24 legitimate medical use?

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1 MR. NICHOLAS: Objection to
2 the form and to the foundation of
3 this question -- of this question
4 and of this line of questions.
5 Go ahead.
6 THE WITNESS: At some point
7 I became aware from reading the
8 press releases concerning this
9 matter.
10 BY MR. PIFKO:
11 Q. In onboarding Walgreens as a
12 customer, did you make any effort to
13 learn about whether they were -- its
14 pharmacies were filling prescriptions
15 that they knew or should have known were
16 not for legitimate medical use?
17 MR. NICHOLAS: Object to the
18 form and foundation.
19 THE WITNESS: I don't recall
20 any specific conversations
21 concerning that matter with
22 Walgreens.
23 BY MR. PIFKO:
24 Q. Did you attempt to learn

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1 that information?
2 MR. NICHOLAS: Object to the
3 form and the foundation.
4 THE WITNESS: Me personally,
5 no.
6 BY MR. PIFKO:
7 Q. Do you know if anyone else
8 did?
9 MR. NICHOLAS: Object to the
10 form --
11 THE WITNESS: I don't know.
12 MR. NICHOLAS: -- and the
13 foundation.
14 MR. PIFKO: All right.
15 We'll take a break now.
16 THE VIDEOGRAPHER: Going off
17 record. The time is 12:38.
18 - - -
19 (Lunch break.)
20 - - -
21 THE VIDEOGRAPHER: We are
22 going back on the record.
23 Beginning of media file Number 3.
24 The time is 1:19.

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1 BY MR. PIFKO:
2 Q. Welcome back.
3 A. Thank you.
4 (Document marked for
5 identification as Exhibit
6 ABDC-Hazewski-10.)
7 BY MR. PIFKO:
8 Q. For the record, Exhibit
9 Number 10 is Bates labeled
10 ABDCMDL00278509 through 00278513.
11 It is a series of e-mails.
12 Take a minute to review it and let me
13 know when you're ready.
14 A. I'm done reviewing.
15 Q. Okay. If you go to the
16 second to last page. 278512.
17 Sorry to make you jump back
18 and forth from pages, but the top of that
19 e-mail is at the very, very bottom of the
20 prior page, if you just fold it over.
21 You see it's an e-mail from
22 Chris Zimmerman sent Wednesday, March 27,
23 2013, to Steve Mays. And then you go to
24 Page 278512, and you see that you're

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1 copied there. Do you see that?
2 A. I do.
3 Q. Okay. The subject is C2
4 hyper-accelerated Perrysburg. Do you see
5 that?
6 A. I do.
7 Q. Okay. At the very bottom of
8 this page it's an e-mail from John
9 Trippe. Do you know who that is?
10 A. I know John Trippe, yes.
11 Q. Okay. Who is he?
12 A. I -- I don't know his
13 position. I just know him as an
14 acquaintance.
15 Q. Okay. You know him from
16 working at the company or just know him
17 from the community?
18 A. From working at the company.
19 Q. So he writes to -- a set of
20 e-mails that's called The Walgreens
21 General Distribution. Do you see that?
22 A. Yes.
23 Q. Okay. Do you know if you
24 were among the people who would have

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1 received the Walgreens general
2 distribution?
3 A. I don't believe I was.
4 Q. Okay. Well, anyway he
5 writes to that group. He says, "So what
6 would you call the Schedule II controlled
7 substances accelerated Walgreens
8 Perrysburg plan? The C2
9 hyper-accelerated Perrysburg plan. You
10 got it. Walgreens called late yesterday
11 afternoon and wants us to take on the
12 attached list of 225 Walgreens accounts
13 next week."
14 Do you see that?
15 A. Yes.
16 Q. Were you aware that the
17 company was rushing to take on these 225
18 Walgreens accounts?
19 MR. NICHOLAS: Object to the
20 form of the question.
21 THE WITNESS: I was not
22 aware of this communication, no.
23 BY MR. PIFKO:
24 Q. Okay. Well, you are -- you

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1 are -- through being copied on the upper
2 e-mail, you did receive this, correct?
3 A. Yes.
4 Q. Do you recall discussing the
5 hyper-accelerated Perrysburg plan?
6 A. I do not.
7 Q. Go to the next e-mail up.
8 Steve writes to Jim Jackson, and that's
9 where he copies you as well. Well,
10 actually I can't see who's copied on the
11 next e-mail. But he's writing to -- it
12 appears to be Jim Jackson, and he's
13 copied on the above e-mail to you.
14 He says, "Jim, can we
15 discuss these accounts when you get an
16 opportunity?"
17 Do you know who Jim Jackson
18 is?
19 A. I know who he is, yes.
20 Q. Who is he?
21 A. He's -- I think he is a vice
22 president. I honestly don't know
23 specifically what he does, which is not a
24 criticism. But I know who he is.

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1 Q. Okay. He's not in a CSRA
2 function, is he?
3 A. He is not.
4 Q. Okay. So Steve says, "I'm
5 concerned that these are the high risk
6 accounts that Cardinal Health wants to
7 dump ASAP, so I want to make sure that we
8 have them sized properly and get the
9 correct thresholds set."
10 Do you see that?
11 A. I do.
12 Q. And then that's when Chris
13 also chimes in and copies you.
14 "We should also put the
15 sales staff on alert in the area where
16 these stores are in case we have to have
17 them go in and do a 590."
18 Do you see that?
19 A. Chris wrote that?
20 Q. Yeah, Chris Zimmerman.
21 A. I'm sorry. Can you tell me
22 what page?
23 Q. It's the part, you're going
24 to look at the bottom of 278511 and it

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1 continues on the next page.
2 A. All right.
3 MR. NICHOLAS: While you are
4 doing this, this has nothing to
5 do -- generally when you read from
6 these -- these e-mails, and this
7 is for the record, so that we have
8 a nice clean record. You read,
9 "I'm concerned that these are the
10 high risk accounts that CAH," and
11 so forth.
12 I think you need -- you said
13 Cardinal Health. I think you need
14 to say what it actually says on
15 the paper if you're going to
16 purport to read what's on the
17 paper, so you need to say CAH.
18 MR. PIFKO: You can make an
19 objection.
20 MR. NICHOLAS: Well, I'm
21 just -- this isn't -- this is just
22 so we have a cleaner record going
23 forward.
24 MR. PIFKO: I think it's a

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1 cleaner record when you say what
2 the actual thing is.
3 MR. NICHOLAS: Well, no, no,
4 no. The actual thing is what's
5 written on the piece of paper. So
6 I think you need to do that. And
7 that's -- that's what I'll ask you
8 to do going forward.
9 THE WITNESS: What was the
10 question?
11 MR. PIFKO: Exactly. More
12 interruptions that disrupt the
13 deposition.
14 MR. NICHOLAS: No need for
15 the commentary. I'm trying to
16 make a clean record.
17 MR. PIFKO: You're talking
18 about making a clean record. I'm
19 making a clean record that you're
20 continuing to disrupt the record
21 with unnecessary discussion.
22 BY MR. PIFKO:
23 Q. Okay. Do you know what CAH
24 stands for? Does that stand for Cardinal

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1 Health? Is that an abbreviation that's
2 used for Cardinal Health?
3 A. Yes.
4 Q. So when I say CAH, you
5 understand that means Cardinal Health,
6 correct?
7 A. I do.
8 Q. Okay. So do you recall
9 there being a discussion about concerns
10 that these were accounts that Cardinal
11 Health didn't want because they were high
12 risk?
13 A. No discussions that I
14 participated in.
15 Q. Okay. You were a recipient
16 of this e-mail, correct?
17 A. Yes.
18 Q. You don't recall when you
19 received this e-mail being concerned that
20 the company was putting itself at risk by
21 taking on accounts that maybe Cardinal
22 Health didn't want?
23 MR. NICHOLAS: Object to the
24 form.

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1 THE WITNESS: Again, I was
2 not involved in any discussions of
3 that sort about those accounts.
4 BY MR. PIFKO:
5 Q. When you received this
6 e-mail, did you do any investigation into
7 these accounts to determine what Steve
8 was talking about, about these being high
9 risk accounts?
10 MR. NICHOLAS: Object to the
11 form.
12 THE WITNESS: I did not.
13 BY MR. PIFKO:
14 Q. If these were high risk
15 accounts that Cardinal Health didn't want
16 to do business with anymore, is that
17 something that you would have liked to
18 have known?
19 MR. NICHOLAS: Object.
20 BY MR. PIFKO:
21 Q. As a diversion control
22 officer for the company?
23 MR. NICHOLAS: Objection.
24 Form and foundation.

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1 THE WITNESS: Well, I think
2 Steve said he was concerned that
3 they might be. I don't know to
4 what extent it was ever determined
5 that was in fact true.
6 BY MR. PIFKO:
7 Q. Well, if it was true, was it
8 something that you'd want to know?
9 MR. NICHOLAS: Objection to
10 form, foundation. Hypothetical.
11 THE WITNESS: I trusted
12 information that would have been
13 ferreted out through the due
14 diligence process.
15 BY MR. PIFKO:
16 Q. Okay. He says, "I'm
17 concerned that these are the" -- "the
18 high risk accounts that Cardinal Health
19 wants to dump."
20 Do you have any idea about
21 why Steve might have known that there
22 were high risk accounts that Cardinal
23 wanted to dump?
24 MR. NICHOLAS: Objection.

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<p>1 Form. Foundation. 2 THE WITNESS: I do not know. 3 BY MR. PIFKO: 4 Q. Did you ever communicate 5 with your counterparts at Cardinal 6 Health? 7 MR. NICHOLAS: Object to the 8 form. Ever? 9 THE WITNESS: I've had 10 discussions with people at 11 Cardinal Health. Not specifically 12 about this. 13 BY MR. PIFKO: 14 Q. Who are your counterparts at 15 Cardinal Health? 16 MR. NICHOLAS: Object to the 17 form. 18 THE WITNESS: Currently I 19 have no counterparts at Cardinal 20 Health. 21 BY MR. PIFKO: 22 Q. Fair enough. During the 23 time when you were an executive in the 24 diversion control function for</p>	<p>1 would have been him, but I can't provide 2 a name. 3 Q. So you never spoke with 4 anyone at Cardinal about high risk 5 Walgreens accounts? 6 A. I did not. 7 Q. You don't recall Steve 8 telling you what high risk Walgreens 9 accounts there might be that Cardinal 10 had? 11 MR. NICHOLAS: Objection. 12 Asked and answered. 13 Go ahead. 14 THE WITNESS: I do not. 15 BY MR. PIFKO: 16 Q. If you go to the first page 17 of Exhibit 10, Steve talks about reaching 18 out to Reardon on the bottom. 19 Do you see that? 20 A. Yes. 21 Q. Do you remember him ever 22 talking about reaching out to Steve 23 Reardon? 24 A. No, I don't.</p>
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<p>1 AmerisourceBergen, do you know who your 2 counterparts at Cardinal were? 3 A. Well, number one, I'd like 4 to correct the executive part. I'm far 5 from an executive. 6 I didn't have a specific 7 person that I communicated with regularly 8 at Cardinal Health. 9 Q. Have you heard of Steve 10 Reardon? 11 A. I've heard the name, yes. 12 I've met him. 13 Q. Okay. So that's someone 14 you've communicated with on occasion? 15 A. No. I've met him. I can't 16 say that we've communicated on occasion. 17 Q. Where did you meet him? 18 A. Industry functions. 19 Q. Can you think of anyone else 20 in the diversion control function at 21 Cardinal that you met? 22 A. There's one person whose 23 name escapes me. But if there was anyone 24 who I would have communicated with, it</p>	<p>1 Q. He also says, "I'm afraid 2 some higher level Cardinal guys might be 3 looking for work." 4 What -- is that something 5 that you're familiar with? 6 A. I have no idea what that 7 refers to. 8 Q. The next e-mail up, Chris 9 tells Steve to ask Mapes. 10 Do you see that? 11 A. Yes. 12 Q. Do you know who Mapes is, 13 Mike Mapes? 14 A. Mike Mapes, yes. 15 Q. Who was he? 16 A. He was a former DEA official 17 that did consulting work for 18 AmerisourceBergen. 19 Q. So at this time, he was a 20 consultant for AmerisourceBergen? 21 A. I don't know the time span 22 that he served. But I know he was a 23 consultant for AmerisourceBergen. 24 Q. Did you ever interact with</p>

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1 Mr. Mapes when he was a DEA agent?
2 A. Not when he was with DEA,
3 no.
4 Q. Are you aware that he had
5 interactions with the company as a DEA
6 agent?
7 A. Yes, I am aware.
8 Q. And then he became a paid
9 consultant for AmerisourceBergen?
10 A. After his career, yes.
11 Q. Looking at the discussion on
12 the first page, do you have any idea
13 about why they wanted to talk to DEA
14 about this discussion concerning
15 Walgreens?
16 A. No, I have no idea.
17 Q. I want to go back to -- and
18 you agree when this says C2, that means a
19 Scheduled II controlled substance,
20 correct?
21 A. Correct.
22 Q. That's a common way of
23 using -- of talking about Schedule II
24 controlled substance by just abbreviating

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1 it C2, correct?
2 A. Yes.
3 Q. Let's go back to the Actavis
4 document. As I'm sure you know, we've
5 since gotten permission to discuss that
6 document.
7 MR. NICHOLAS: Did you say
8 you just got permission to discuss
9 the document?
10 MR. PIFKO: Yeah. Sterling
11 e-mailed with their counsel.
12 MR. NICHOLAS: Is there
13 someone on the line to confirm it?
14 Zach are you there?
15 MR. CIULLO: Yeah, this is
16 Zach -- this is Zach Ciullo. I
17 can confirm.
18 MR. PIFKO: Thank you Zach.
19 BY MR. PIFKO:
20 Q. Do you have that in front of
21 you?
22 A. Yeah.
23 Q. Which exhibit is that?
24 A. Four.

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1 Q. Looking at Exhibit 4 -- as a
2 general matter, do you recall meeting
3 with any other manufacturers to discuss
4 suspicious order monitoring programs?
5 MR. CIULLO: Objection to
6 form.
7 THE COURT REPORTER: If I
8 could ask if they could identify
9 themselves.
10 MR. CIULLO: Zachary Ciullo.
11 THE COURT REPORTER: Thank
12 you.
13 MR. STERLING: Do you want
14 to tell her who you represent,
15 Zach, so can keep you on record
16 for further objection?
17 MR. CIULLO: Yes, I
18 represent Allergan Finance LLC.
19 THE WITNESS: Can you
20 refresh my recollection of the
21 question?
22 BY MR. PIFKO:
23 Q. Yeah, no problem.
24 I said, as a general matter,

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1 do you recall having meetings with
2 manufacturers of controlled substances
3 concerning suspicious order monitoring
4 programs?
5 MR. CIULLO: Same objection.
6 THE WITNESS: Yes. I recall
7 having interactions with other
8 manufacturers.
9 BY MR. PIFKO:
10 Q. Can you name any other
11 manufacturers you recall having met with?
12 A. Mallinckrodt. Most of the
13 interactions with manufacturers was by
14 way of an annual form that they required
15 be filled out just certifying the
16 existence of an order monitoring program
17 and so forth. It was general practice
18 for most of the manufacturers to send
19 that sort of form. Mallinckrodt is the
20 only one I can think of that I met with
21 personally.
22 Q. They had a form they wanted
23 to fill out for their records to ensure
24 that you told them you had a suspicious

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1 order monitoring program? Is that what
2 you're saying?
3 MR. NICHOLAS: Object to
4 form.
5 THE WITNESS: Yes.
6 MR. CIULLO: Same objection.
7 BY MR. PIFKO:
8 Q. Do you know if at any time
9 manufacturers conducted audits of
10 AmerisourceBergen's suspicious order
11 monitoring programs?
12 A. I don't recall any coming
13 into our company to do an on-site audit,
14 no.
15 Q. How about any kind of audit?
16 A. No, nothing that came under
17 my responsibility.
18 Q. Do you ever recall
19 Mallinckrodt having conducted an audit
20 with you?
21 A. No. I recall meeting with
22 them in person. I don't recall any audit
23 functions being performed.
24 Q. Where was that meeting?

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1 A. At our corporate
2 headquarters in Pennsylvania.
3 Q. Okay. Do you recall
4 approximate time period?
5 A. No, I don't.
6 Q. And what did you discuss
7 during that meeting?
8 A. We generally discussed
9 customers that they were concerned with
10 who were purchasing their products and
11 that were customers of AmerisourceBergen.
12 Q. And why -- did they tell why
13 they were concerned about these customers
14 that you were discussing?
15 A. They had their own --
16 MR. CIULLO: Object to form.
17 THE WITNESS: They had their
18 own internal program which my
19 recollection is these customers
20 were identified through their
21 program as purchasing quantities
22 that they felt were -- bear
23 further investigation.
24 BY MR. PIFKO:

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1 Q. And when you talk about
2 customers, these were retail pharmacy
3 customers?
4 A. Correct.
5 Q. So Mallinckrodt, based on
6 your discussion with them, Mallinckrodt
7 had some sort of monitoring system of its
8 own that raised flags about certain
9 customers and that they came to you to
10 discuss those customers?
11 A. They had their own program
12 that identified customers that they
13 wanted to discuss with us, yes.
14 Q. Going back to this meeting
15 with Actavis. Let's go to the fifth
16 page. Do you see it says System
17 Challenges and Responses?
18 A. Yes.
19 Q. It says, "Threshold-based
20 systems are not sufficient." Do you see
21 that?
22 A. I do.
23 Q. Do you have any recollection
24 of Actavis telling you why

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1 threshold-based systems were not
2 sufficient?
3 MR. NICHOLAS: Objection to
4 the form and to the -- and to the
5 foundation of the question.
6 MR. CIULLO: Same.
7 THE WITNESS: I do not
8 recall that.
9 BY MR. PIFKO:
10 Q. How about, it says, the next
11 bullet point says, "Cutting orders to a
12 volume that puts the order under a
13 threshold is not acceptable."
14 Do you see that?
15 A. I do.
16 Q. Do you understand what they
17 are referring to there?
18 MR. NICHOLAS: Objection to
19 the form and to the foundation.
20 MR. CIULLO: Join.
21 THE WITNESS: I -- no, I
22 don't know what they are referring
23 to specifically.
24 BY MR. PIFKO:

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1 Q. Have you heard of the idea
2 of someone places an order, let's just
3 say for example it's for a thousand
4 units, but it puts them over their
5 threshold by a hundred units, so then
6 someone modifies the order to make it
7 900 units and then it passes through.
8 Have you heard of that idea?
9 A. I had not.
10 Q. Is that a permissible
11 practice as far as you're concerned under
12 ABDC's policies?
13 MR. NICHOLAS: Object to the
14 form.
15 THE WITNESS: It is not.
16 BY MR. PIFKO:
17 Q. It is not permissible?
18 A. It's not acceptable.
19 Q. And why is that?
20 A. It's altering information
21 that is not intended to be altered.
22 Q. Did AmerisourceBergen have a
23 threshold-based system in 2012?
24 A. Yes.

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1 Q. If you go to Page 7. Are
2 you there?
3 A. Yes.
4 Q. It's a flowchart. It says,
5 "SOM overall process." I assume that
6 means suspicious order monitoring overall
7 process. Do you see that?
8 A. Yes.
9 Q. Okay. Looking at this
10 process, is this reflective of
11 AmerisourceBergen's process?
12 MR. NICHOLAS: Object to the
13 form. Object to the foundation.
14 If he's going to insist you
15 answer, please read it carefully.
16 THE WITNESS: I don't know
17 who authored the -- the document.
18 I don't know what the intention
19 was, whether they are discussing
20 current practice, whether --
21 whether they are proposing
22 something. I just don't have
23 enough information to know.
24 BY MR. PIFKO:

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1 Q. Okay. But you're familiar
2 with AmerisourceBergen's suspicious order
3 monitoring process, correct?
4 A. Yes.
5 Q. Does this appear to be
6 consistent with that, or is this not
7 reflective of what AmerisourceBergen's
8 practices is?
9 MR. NICHOLAS: Objection.
10 Total lack of foundation. It's
11 not an SAT question.
12 THE WITNESS: I mean there
13 seems to be components here that
14 are consistent with what we do as
15 far as -- or did at the time for
16 our order monitoring program.
17 BY MR. PIFKO:
18 Q. But there's other components
19 that are not what you did?
20 MR. NICHOLAS: Same
21 objection. If you're going to ask
22 him to take the time and go
23 through component by component,
24 we'll be here a while.

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1 THE WITNESS: Well, for
2 example, I don't recall us having
3 anything that we termed an SOM
4 steering committee. That's about
5 the only thing that I could
6 identify.
7 BY MR. PIFKO:
8 Q. Okay. I want to go to -- go
9 to Page 11. Are you there?
10 A. Yes.
11 Q. It's the slide, the top of
12 the slide says, "Top 50 Pharmacies Sales
13 of Oxycodone 30, January 1st, 2012, to
14 June 2012."
15 And then it says in
16 parentheses, "not all of June being
17 reported at the time these statistics
18 were reported."
19 Do you see that?
20 A. Yes.
21 Q. It has an NDC code 287911.
22 Do you see that?
23 A. Yes.
24 Q. Do you know what that code

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1 refers to?

2 MR. NICHOLAS: Object to the

3 form of the question. Object to

4 the foundation.

5 THE WITNESS: I don't know

6 for certain, but I believe it

7 refers to a particular product.

8 BY MR. PIFKO:

9 Q. Okay. So this chart, it has

10 a rank. A buyer's DEA number. A buyer.

11 City, state, zip code. Number of pills.

12 Bottles. And it has a column of the

13 wholesaler. Do you see that?

14 A. I do.

15 Q. Okay. AmerisourceBergen is

16 listed as one or the only wholesaler for

17 all these, correct?

18 Or, sorry, one of the

19 wholesalers on all these, on Page 11,

20 correct?

21 MR. NICHOLAS: Object to the

22 form. Object to the foundation.

23 THE WITNESS: I don't quite

24 understand your question.

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1 BY MR. PIFKO:

2 Q. In the wholesaler column.

3 A. Right.

4 Q. It says ABC, that refers to

5 AmerisourceBergen Corporation, correct?

6 A. Correct.

7 Q. And then it has a name. Is

8 that a distribution center name?

9 A. It is.

10 Q. Okay. So let's take

11 Number 1. [REDACTED] Do you

12 know if that was a -- if [REDACTED] was a

13 customer of AmerisourceBergen's?

14 MR. NICHOLAS: Object to the

15 form. Object to the foundation.

16 I'll try not to object to

17 everything provided I'm given a

18 continuing objection to this

19 entire line of questioning about a

20 document that he hasn't seen,

21 that's another company's document.

22 Do I have the continuing

23 objection?

24 MR. CIULLO: Join.

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1 MR. PIFKO: You can make

2 that objection, sure.

3 MR. NICHOLAS: But -- I know

4 I can make it. But do I have to

5 repeat it every time?

6 MR. PIFKO: It depends on

7 the question.

8 MR. NICHOLAS: Okay. I

9 guess I have to repeat it every

10 time.

11 MR. PIFKO: Okay.

12 MR. NICHOLAS: Object to the

13 form. Object to the foundation.

14 MR. PIFKO: My questions are

15 not all about the document.

16 MR. NICHOLAS: Every

17 question is based on the document

18 that you have in front of him. If

19 you want to ask him questions

20 about the document in front of

21 him, I won't have to continue to

22 object.

23 But as long as you ask him

24 to look at the document and ask

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1 questions about it, I guess I'll

2 have to object every time.

3 Object to the form. Object

4 to the foundation.

5 BY MR. PIFKO:

6 Q. You probably don't remember

7 my question, do you?

8 A. I believe you were asking

9 about the first line, the customer in

10 that line.

11 Q. What did I ask you?

12 MR. NICHOLAS: Object to the

13 form of that question.

14 THE WITNESS: Were they an

15 AmerisourceBergen customer.

16 BY MR. PIFKO:

17 Q. Correct. Okay. What's the

18 answer to that?

19 MR. NICHOLAS: Objection.

20 Go ahead.

21 THE WITNESS: They were at

22 one time.

23 BY MR. PIFKO:

24 Q. Okay. It says they are

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1 ranked number one -- all the way to the
2 right of the comments section. Ranked
3 Number 1 for oxy 15-milligram and oxy
4 30-milligram in 2011; Number 1 for
5 30-milligram and Number 29 for
6 15-milligram.
7 Do you see that?
8 A. I do.
9 Q. Do you have an understanding
10 of what -- what that means?
11 MR. NICHOLAS: Objection to
12 the form. Objection to the
13 foundation.
14 MR. CIULLO: Join.
15 THE WITNESS: I'm confused
16 by what ranking they are referring
17 to.
18 Is it their -- their
19 ranking, our ranking? I just
20 don't have enough information.
21 BY MR. PIFKO:
22 Q. Okay. Let's go to Line 6.
23 If you go to the rank on the left.
24 [REDACTED]

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1 Are you there?
2 A. Yes.
3 Q. Okay. It says,
4 "Wholesaler," and it says,
5 "AmerisourceBergen, Bethlehem."
6 Do you have a distribution
7 center there?
8 A. Yes, we do.
9 MR. NICHOLAS: Objection to
10 form and foundation.
11 Go ahead.
12 BY MR. PIFKO:
13 Q. And then it says and,
14 "Wholesaler Number 2."
15 Do you see that?
16 A. I do.
17 Q. And then it says in the
18 comment section, "Dual sourcing."
19 Do you see that?
20 A. Yes.
21 Q. Do you understand that to
22 mean that the numbers being reflected
23 here are from ABC and some other unknown
24 distributor --

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1 MR. NICHOLAS: Objection.
2 BY MR. PIFKO:
3 Q. -- Wholesaler Number 2.
4 MR. NICHOLAS: Objection to
5 the form. Objection to the
6 foundation.
7 MR. CIULLO: Join.
8 THE WITNESS: That would be
9 my understanding of that line.
10 BY MR. PIFKO:
11 Q. Then we have the same thing
12 on Line 17 for Hopkins Pharmacy, and Line
13 20 for Humana Pharmacy in West Chester,
14 Ohio.
15 Do you see those?
16 A. I do.
17 Q. And in the comments it says,
18 "Dual sourcing," again.
19 Do you see that?
20 A. Yes.
21 Q. Same thing for Number 37.
22 Agree?
23 MR. NICHOLAS: Object to the
24 form. Object to the foundation.

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1 THE WITNESS: Yes.
2 MR. CIULLO: Join.
3 BY MR. PIFKO:
4 Q. Let's go to Slide 13. Do
5 you see what it says at the top of Slide
6 13?
7 A. Let me make sure I'm -- yes.
8 Q. Can you read that for me?
9 A. "Pharmacies purchasing from
10 multiple wholesalers. Sales of oxycodone
11 15-milligram and 30-milligram, NDC" -- do
12 you want me to read the NDC numbers?
13 Q. That's okay. Thank you.
14 And it's for the time period January 1st,
15 2012 to October 15, 2012.
16 Do you see that?
17 A. Yes.
18 Q. Okay. And then it's got a
19 chart, which has a buyer's DEA number,
20 buyer name, some information about where
21 the buyer is located, the wholesaler, and
22 the quantity of oxy 30, 100 count from
23 the 867 data.
24 Do you see that?

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1 A. Yes.
2 Q. And then it also has another
3 column for the quantity of 15-milligram
4 year-to-date 867 data.
5 Do you see that?
6 A. Yes.
7 Q. Do you know what 867 data
8 is?
9 MR. NICHOLAS: Object to the
10 form.
11 THE WITNESS: I do not.
12 BY MR. PIFKO:
13 Q. Are these buyers listed in
14 the buyer column, are those
15 AmerisourceBergen customers at that time?
16 MR. NICHOLAS: Objection to
17 form and foundation.
18 THE WITNESS: Most sound
19 familiar. One I'm not -- I've
20 never heard of.
21 BY MR. PIFKO:
22 Q. Which one?
23 A. [REDACTED]
24 Q. Okay. If we wanted to

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1 confirm that these were AmerisourceBergen
2 customers, where would I look?
3 MR. NICHOLAS: Object to the
4 form.
5 THE WITNESS: On one of our
6 internal computer systems.
7 BY MR. PIFKO:
8 Q. Under the Star system or the
9 SAP system?
10 MR. NICHOLAS: Objection to
11 the form.
12 THE WITNESS: I don't know
13 enough about either system to be
14 able to say yes --
15 BY MR. PIFKO:
16 Q. Okay.
17 A. -- or no.
18 Q. But there's -- one could
19 look at AmerisourceBergen's data and find
20 out if these were customers at that time?
21 MR. NICHOLAS: Objection.
22 Form.
23 THE WITNESS: We can
24 certainly determine if they were

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1 customers, yes.
2 BY MR. PIFKO:
3 Q. Okay. And you see here, it
4 has -- it says in the wholesaler column,
5 ABDC and it has a distribution center,
6 and it names that there are other
7 wholesalers.
8 Do you see that, for all
9 these?
10 A. Yes.
11 Q. Okay. And then it's got the
12 quantities in the other columns, agreed?
13 A. Yes.
14 Q. Do you recall any other
15 manufacturers ever sharing sales data or
16 purchasing volumes concerning
17 AmerisourceBergen's customers with you?
18 MR. NICHOLAS: Object to the
19 form.
20 MR. CIULLO: Object to form.
21 THE WITNESS: The -- the
22 information discussed with
23 Mallinckrodt was similar to the
24 kind of information on this

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1 document.
2 BY MR. PIFKO:
3 Q. Okay. And so in the meeting
4 and the discussion that you had with
5 Mallinckrodt, they also shared with you
6 sales data which may have reflected
7 purchases of a customer from multiple
8 wholesalers?
9 MR. NICHOLAS: Object to the
10 form.
11 THE WITNESS: I don't recall
12 the extent of the data. The only
13 thing that I remember is them
14 providing customer names that they
15 wanted to discuss.
16 BY MR. PIFKO:
17 Q. On February 11, 2013,
18 Actavis sent you a letter. I don't have
19 a copy of that letter from
20 AmerisourceBergen's files, but it's got
21 your name on it.
22 MR. PIFKO: Are we going to
23 have an argument with counsel that
24 the witness received this letter,

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<p>1 given that it's a letter that -- 2 has got his name at the top here? 3 It says, "It was a pleasure 4 speaking with you," et cetera, and 5 describes a discussion with him? 6 MR. NICHOLAS: You know, for 7 someone who doesn't -- 8 MR. CIULLO: Can you give me 9 the Bates numbers. 10 MR. PIFKO: Yeah, it's 11 TEVA_MDL_A_01037633. 12 MR. CIULLO: I'm sorry. 13 Repeat the numbers. You cut out a 14 little bit. 15 MR. PIFKO: Okay. It's 16 TEVA_MDL_A_01037633. 17 MR. NICHOLAS: Before I 18 answer your question, what 19 exactly -- 20 MR. PIFKO: I'm not asking 21 you. I'm asking counsel on the 22 phone. 23 MR. CIULLO: Give me a 24 moment to review the document,</p>	<p>1 Bates labeled Teva_MDL_A_01037633 through 2 34. 3 It is a letter addressed to 4 the witness, dated February 11, 2013. 5 Please take a moment to review it and let 6 me know when you're done. 7 A. I have reviewed. 8 Q. All right. Do you recall 9 reading this letter from Mr. Napoli? 10 A. I don't recall receiving the 11 letter, but I remember conversations with 12 Tom Napoli. 13 Q. Who is Tom Napoli? 14 A. I don't know his position 15 title, but he was -- well, it says 16 associate director of controlled 17 substance compliance for Actavis. 18 Q. You say you recall speaking 19 with him? 20 A. Yes. 21 Q. On more than one occasion? 22 A. Yeah, he was an acquaintance 23 through industry groups, so I knew him to 24 speak with.</p>
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<p>1 please. 2 MR. PIFKO: No problem. 3 MR. CIULLO: Thank you. 4 This was addressed to him. 5 We don't have any objection to 6 this. 7 MR. PIFKO: Thank you. 8 MR. CIULLO: For the record, 9 it would be helpful, just to avoid 10 these kind of issues like we've 11 had today, if we reach out to 12 counsel before. But it's up to 13 you. 14 MR. PIFKO: Understood. I 15 don't think we're going to be 16 using any documents from any other 17 defendant after this. 18 (Document marked for 19 identification as Exhibit 20 ABDC-Hazewski-11.) 21 BY MR. PIFKO: 22 Q. I'm handing you what's 23 marked as Exhibit 11. 24 It's a two-page document.</p>	<p>1 Q. Okay. What industry groups 2 did you know him from? 3 A. There was a New Jersey -- I 4 don't recall the specific name of the -- 5 of the group. But there was a New Jersey 6 group of pharmaceutical manufacturers and 7 distributors that met on -- I don't 8 recall how frequently, but we -- we met 9 and discussed issues of concern. 10 Q. When you say issues of 11 concern, what do you mean? 12 A. Suspicious order monitoring. 13 Due diligence. Other issues that were 14 specific to manufacturers that I really 15 knew nothing about. Issues of that sort. 16 Q. Do you remember the identity 17 of any other companies who participated 18 in those meetings? 19 A. No, I -- I don't recall any 20 other wholesale distributors 21 participating. In terms of the 22 manufacturers, there were several, but I 23 couldn't -- I couldn't tell you which 24 ones.</p>

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1 Q. Did you ever get any notes
2 or documents or e-mails from -- from that
3 group?
4 A. None that I recall.
5 Q. How did you know to go to
6 the meetings?
7 A. Probably through an e-mail
8 request.
9 Q. Okay. Who -- someone from
10 the group would have e-mailed you?
11 A. Correct.
12 MR. NICHOLAS: Object to the
13 form.
14 MR. CIULLO: Join.
15 BY MR. PIFKO:
16 Q. After these meetings
17 occurred, do you remember exchanging
18 discussion with anyone over e-mail?
19 A. No, I don't.
20 Q. Okay. But you knew
21 Mr. Napoli from these meetings?
22 A. Yes.
23 Q. You met with him with some
24 regularity?

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1 MR. NICHOLAS: Object to
2 form and foundation.
3 MR. CIULLO: Same objection.
4 THE WITNESS: I don't know
5 whether I would say with
6 regularity, but when we had
7 occasion to speak, we did.
8 BY MR. PIFKO:
9 Q. Okay. So this -- this says,
10 "It was a pleasure speaking with both
11 yourself and Joe Tomkiewicz this
12 afternoon." Do you remember -- and it
13 goes on to say about "mutual compliance
14 goals relative to Oxycodone, 15 tablets
15 and Oxycodone 30."
16 Do you see that?
17 A. I do.
18 Q. Okay. Do you recall having
19 a discussion with him about that?
20 A. Other than his synopsis in
21 this letter, I don't have a recollection
22 of specifically talking about it.
23 Q. The document we previously
24 reviewed also discusses Oxycodone 15s and

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1 30s, correct?
2 A. Which other document are
3 you --
4 Q. The Actavis presentation we
5 just looked at.
6 A. Yes.
7 Q. Who is Joe Tomkiewicz?
8 A. He's a former employee of
9 AmerisourceBergen and worked on the
10 diversion control team.
11 Q. Did he work for you or just
12 with you or?
13 A. For me.
14 Q. Okay. What was his role?
15 A. He was -- he reviewed
16 suspicious orders. He did a lot of our
17 data work in terms of putting together
18 spreadsheets to pass along information
19 internally about the job we were doing.
20 Q. Do you agree that you had
21 mutual compliance goals with Actavis?
22 MR. NICHOLAS: Object to the
23 form. Go ahead.
24 THE WITNESS: I agree, the

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1 entire supply chain has mutual
2 goals when it comes to compliance.
3 BY MR. PIFKO:
4 Q. And how so?
5 MR. NICHOLAS: Object to the
6 form.
7 THE WITNESS: I think the --
8 the group as a whole, or the
9 industry as a whole, are
10 responsible corporate citizens and
11 endeavor to do the right thing.
12 BY MR. PIFKO:
13 Q. In what way do they endeavor
14 to do the right thing?
15 A. By following the guidelines
16 and statutes that -- that govern the
17 handling of controlled substances.
18 Q. I believe I've seen in one
19 of your documents that the company should
20 engage in diversion control because it's
21 the right thing to do. Is that a
22 statement you would agree with?
23 MR. NICHOLAS: Object to the
24 form. Go ahead.

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1 THE WITNESS: I think we do
2 do the right thing.
3 BY MR. PIFKO:
4 Q. But I'm just asking, if --
5 if you agree that the company should
6 engage in diversion control because it's
7 the right thing to do?
8 MR. NICHOLAS: Object to the
9 form.
10 THE WITNESS: We -- we
11 should engage in diversion control
12 because it's mandated by the
13 statute.
14 BY MR. PIFKO:
15 Q. But also because it's the
16 right thing to do?
17 MR. NICHOLAS: Object to the
18 form. But go ahead.
19 THE WITNESS: It is the
20 right thing to do, yes.
21 BY MR. PIFKO:
22 Q. In this letter at the bottom
23 it talks about AmerisourceBergen's having
24 reevaluated ordering threshold limits,

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1 and reduce them by 50 percent. You can
2 read the whole bottom paragraph down
3 there. It's the second to last sentence
4 that talks about that.
5 A. This is the letter to me
6 you're referring to, correct?
7 Q. Yeah.
8 MR. CIULLO: Sorry, where
9 are you?
10 MR. PIFKO: Bottom of that
11 letter.
12 THE WITNESS: Okay.
13 BY MR. PIFKO:
14 Q. Do -- do you recall that --
15 whether AmerisourceBergen reduced
16 ordering threshold limits by 50 -- 50
17 percent for Oxycodone 15 and 30 from
18 Actavis?
19 MR. NICHOLAS: Object to the
20 form.
21 THE WITNESS: I recall that
22 we reduced threshold limits for
23 Oxycodone, not specifically
24 Actavis products, but across the

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1 board.
2 BY MR. PIFKO:
3 Q. Okay. When did you do that?
4 A. I couldn't tell you. I
5 don't recall.
6 Q. Do you remember why you did
7 that?
8 A. To -- I don't recall
9 specifically the reasoning behind it.
10 But we wanted to lessen our distribution
11 of those particular products, which I've
12 described previous as high-risk products.
13 Q. If you go to the next page,
14 top paragraph. I'll read to you. "Also
15 during our discussion, we indicated that
16 a review of the previous six months'
17 ordering of the Oxycodone HCL 15 and
18 30-milligram products from legacy Actavis
19 indicated no appreciable reduction in
20 order quantities."
21 Do you see that?
22 A. I do.
23 Q. Is it your understanding
24 that although the thresholds were

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1 lowered, it didn't result in a lesser
2 quantity being ordered?
3 MR. NICHOLAS: Objection to
4 the form, and the foundation.
5 THE WITNESS: I don't know
6 the time frames in terms of when
7 the reductions took place as to
8 when this data was gathered. It's
9 just difficult to say.
10 BY MR. PIFKO:
11 Q. Do you ever recall
12 discussing that even though the company
13 lowered thresholds for those products, it
14 didn't impact the quantities that were
15 sold?
16 A. I don't recall having such
17 discussions, no.
18 Q. Would you expect that if you
19 lowered the thresholds, that sales would
20 go down?
21 MR. NICHOLAS: Object to the
22 form.
23 MR. CIULLO: Objection,
24 foundation.

<p style="text-align: right;">Page 210</p> <p>1 THE WITNESS: I would have 2 to look at the data more closely. 3 It doesn't -- it seems to -- it 4 seems to me if the thresholds are 5 lowered -- but that doesn't take 6 into account what products are 7 being ordered. There's -- there's 8 just not enough information here 9 for me to comment. 10 BY MR. PIFKO: 11 Q. If the thresholds -- sorry, 12 you were still talking? 13 A. No, I'm sorry. 14 Q. Okay. If the thresholds 15 were -- okay. 16 You agree that the 17 methodology used for calculating 18 thresholds at AmerisourceBergen was -- at 19 one point was three times an average for 20 a customer that size and type, correct? 21 MR. NICHOLAS: Object to the 22 form. 23 THE WITNESS: Correct. 24 BY MR. PIFKO:</p>	<p style="text-align: right;">Page 212</p> <p>1 (Document marked for 2 identification as Exhibit 3 ABDC-Hazewski-12.) 4 BY MR. PIFKO: 5 Q. I'm handing you what's 6 marked as Exhibit 12. 7 Exhibit 12 is a three-page 8 e-mail, Bates-labeled ABDCMDL00267230 9 through 267232. 10 Take a minute to review 11 this. Let me know when you're done. 12 A. Okay. Okay. I'm ready. 13 Q. All right. This is a series 14 of e-mails. The subject is OMP. The one 15 at the top is dated March 30, 2011, from 16 Chris Zimmerman to Steve Mays, copying 17 you and Bruce Gundy. 18 There are some other e-mails 19 below from Ron Manchester, who is the 20 vice president, it looks like, at the 21 Houston operation. 22 I want to call your 23 attention to the first page. Chris is 24 writing to Steve and copying you and</p>
<p style="text-align: right;">Page 211</p> <p>1 Q. So that's 300 percent of 2 what their average orders were for the 3 measured time period, correct? 4 A. Yes. 5 Q. So that puts in some buffer 6 room from what the average pace is, 7 correct? 8 MR. NICHOLAS: Object to the 9 form. 10 THE WITNESS: Correct. 11 BY MR. PIFKO: 12 Q. So you could lower the 13 threshold, and it doesn't necessarily 14 mean that the amount ordered goes down 15 because the threshold is above what the 16 average is, correct? 17 MR. NICHOLAS: Object to the 18 form. 19 THE WITNESS: Again, I'm 20 just not comfortable with these 21 hypotheticals as to what the 22 result of our actions would be 23 given the volumes of data that 24 need to be assessed.</p>	<p style="text-align: right;">Page 213</p> <p>1 Bruce Gundy. And he says, halfway 2 through the page, "First, when an order 3 is 'just 3 percent or 6 percent' over 4 threshold referenced below, it is 5 actually 303 percent and 306 percent over 6 the average purchase for that size 7 pharmacy because we billed a 300 percent 8 float into each threshold." 9 Do you see that? 10 A. I do. 11 Q. Do you agree that's how the 12 system works? 13 MR. NICHOLAS: Object to the 14 form. 15 THE WITNESS: In terms of 16 those numbers you mean? 17 BY MR. PIFKO: 18 Q. The threshold, when you're 3 19 or 6 percent over threshold, you're 20 actually three times that amount over the 21 average? 22 MR. NICHOLAS: Object to the 23 form. 24 THE WITNESS: Yeah. I agree</p>

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1 with that.
2 BY MR. PIFKO:
3 Q. And for the record,
4 Mr. Zimmerman's math is actually wrong on
5 that calculation. It's 309 and
6 318 percent if you are 3 and 6 percent
7 over.
8 MR. NICHOLAS: I'll object
9 because I have no idea whether
10 that's right or wrong.
11 BY MR. PIFKO:
12 Q. You agree a 300 percent over
13 the average is a fair amount of wiggle
14 room in the thresholds?
15 MR. NICHOLAS: Object to the
16 form. Foundation. Mainly form.
17 THE WITNESS: That's the
18 manner in which the system was
19 built. So yes, I agree with that.
20 BY MR. PIFKO:
21 Q. Let's go to the next page.
22 The top -- second full paragraph.
23 Chris comments that -- he
24 says, "It's interesting that the only

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1 other two distribution centers on this
2 e-mail string are Orlando, who had its
3 DEA registration suspended, and Houston,
4 which DEA had scheduled to suspend its
5 DEA registration if we had not come to an
6 agreement for the DEA-approved OMP."
7 Do you see that?
8 A. I do.
9 Q. Do you recall discussions
10 about the Houston distribution center
11 nearly having its registration suspended?
12 A. I do not.
13 Q. Maybe that would have been
14 before your time?
15 A. Perhaps it was. I don't
16 know the time span.
17 Q. Do you have any reason to
18 dispute what Mr. Zimmerman is saying
19 there?
20 A. I do not.
21 (Document marked for
22 identification as Exhibit
23 ABDC-Hazewski-13.)
24 BY MR. PIFKO:

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1 Q. I'm handing you what's
2 marked as Exhibit 13. Take a minute to
3 review that. Let me know when you're
4 done.
5 For the record, Exhibit 13
6 is a two-page e-mail Bates-labeled
7 ABDCMDL00267013 and 14.
8 MR. NICHOLAS: Mark, after
9 this document, could we take a
10 break?
11 MR. PIFKO: Yes.
12 MR. NICHOLAS: Are you
13 getting close?
14 MR. PIFKO: I think so.
15 I'll tell you this. I promise
16 I'll be before 4:00. I hope a lot
17 sooner. I can say that with some
18 certainty.
19 MR. NICHOLAS: Is this
20 flight related?
21 MR. PIFKO: No. Just what
22 we got going on here, unless you
23 want to start some discussion with
24 me.

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1 MS. HELLER-TOIG: Any sense
2 how long we're going to go?
3 MR. PIFKO: That's what we
4 were just discussing. Probably
5 not a lot longer. We'll see.
6 I want to clarify for the
7 record. Bob hates it when I
8 accuse him of stuff.
9 Exhibit 11, Sterling just
10 found that is in Amerisource's
11 production. To the extent that
12 there was an argument that it
13 wasn't produced, we're not making
14 an argument.
15 MR. CIULLO: Mark, really
16 quickly, this is Zach Ciullo
17 again. Regarding Exhibit 11, I
18 want to be clear, I don't have
19 authority to object or not to
20 object for Teva.
21 Again, that should have been
22 reached out to regarding -- you
23 should have reached out to Teva
24 regarding that document. But

<p style="text-align: right;">Page 218</p> <p>1 obviously you can ask him because</p> <p>2 he was on the document. But I</p> <p>3 don't have authority to object or</p> <p>4 not to object to Teva. Thank you.</p> <p>5 MR. PIFKO: Okay.</p> <p>6 THE WITNESS: I've reviewed.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. Okay. Do you recall the</p> <p>9 discussion reflected in these e-mails?</p> <p>10 A. I recall the discussions</p> <p>11 concerning the complaints from the</p> <p>12 Birmingham distribution center.</p> <p>13 Q. What were they complaining</p> <p>14 about?</p> <p>15 A. The time that it was taking</p> <p>16 to reach decisions on whether an order</p> <p>17 was suspicious or not.</p> <p>18 Q. You write on the first page</p> <p>19 of this document, in the middle, to Jeff.</p> <p>20 You say: "During our most recent call</p> <p>21 (me, you, Erica, and Bobby), I agreed to</p> <p>22 let your OMP team release orders that</p> <p>23 were 10 percent or less over."</p> <p>24 Do you see that?</p>	<p style="text-align: right;">Page 220</p> <p>1 conversation, no.</p> <p>2 Q. Okay. Do you have any</p> <p>3 reason to dispute that Steve was</p> <p>4 concerned that by telling the OMP team at</p> <p>5 Birmingham that they could release orders</p> <p>6 that were 10 percent or less over, that</p> <p>7 that would be setting up one-off</p> <p>8 agreements?</p> <p>9 MR. NICHOLAS: Object to the</p> <p>10 form. Go ahead.</p> <p>11 THE WITNESS: I agree that</p> <p>12 he had a concern.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. Do you think that's a</p> <p>15 concern?</p> <p>16 MR. NICHOLAS: Object to the</p> <p>17 form.</p> <p>18 THE WITNESS: I would have</p> <p>19 to revisit all of the</p> <p>20 circumstances involved. The --</p> <p>21 the type of orders that we are</p> <p>22 discussing, they're -- whether</p> <p>23 they are high risk. There's a lot</p> <p>24 of factors, but that would lead me</p>
<p style="text-align: right;">Page 219</p> <p>1 A. I do.</p> <p>2 Q. Do you recall making that</p> <p>3 agreement?</p> <p>4 A. To the extent that it's in</p> <p>5 front of me in writing, I would agree.</p> <p>6 Q. Okay. Do you have any</p> <p>7 reason to dispute that you made that</p> <p>8 agreement?</p> <p>9 A. No.</p> <p>10 Q. Steve writes to you: "Let's</p> <p>11 discuss Monday and then we can set up a</p> <p>12 call with Jeff, Erica and his team. I'm</p> <p>13 a little concerned that we are setting up</p> <p>14 one-off agreements with the Birmingham</p> <p>15 distribution center over and above the</p> <p>16 basic order monitoring program</p> <p>17 requirements."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Do you recall having that</p> <p>21 discussion with Steve about that issue?</p> <p>22 A. Again, to the extent that</p> <p>23 it's in the e-mail. I don't have a</p> <p>24 specific recollection of the</p>	<p style="text-align: right;">Page 221</p> <p>1 to say I had a concern or not.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. Do you recall making</p> <p>4 agreements with other distribution</p> <p>5 centers about allowing them to release</p> <p>6 orders that were 10 percent or less over</p> <p>7 the threshold?</p> <p>8 A. No.</p> <p>9 Q. Are you certain that you</p> <p>10 didn't make those agreements or you just</p> <p>11 don't recall?</p> <p>12 A. I'm certain I did not make</p> <p>13 those agreements.</p> <p>14 Q. This is the only one where</p> <p>15 you made that kind of an agreement?</p> <p>16 MR. NICHOLAS: Object to the</p> <p>17 form.</p> <p>18 THE WITNESS: Yes.</p> <p>19 MR. PIFKO: All right. We</p> <p>20 can take a break.</p> <p>21 THE VIDEOGRAPHER: We are</p> <p>22 going off record. The time is</p> <p>23 2:28.</p> <p>24 (Short break.)</p>

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1 THE VIDEOGRAPHER: We are
2 going back on the record.
3 Beginning Media File Number 4.
4 The time is 2:52.
5 (Document marked for
6 identification as Exhibit
7 ABDC-Hazewski-14.)
8 BY MR. PIFKO:
9 Q. All right. I'm handing you
10 what's been marked as Exhibit 14.
11 Take all the time you want
12 to review the e-mail. But I was just
13 going to ask you a question about one of
14 the paragraphs.
15 For the record, the
16 Exhibit 14 is a series of e-mails
17 Bates-labeled ABDCMDL00279037 through
18 9039.
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 I want to ask you some
24 questions about that. If you want to

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1 turn your attention to that paragraph on
2 the first page.
3 A. On the first page, okay.
4 Q. Yeah.
5 A. And which paragraph again?
6 I'm sorry.
7 Q. Well, you can read that
8 whole e-mail from Steve Mays dated
9 June 6th, 2013. You are on the "to"
10 line. And it says "Jason."
11 Do you see that part?
12 A. Yes.
13 Q. Okay. Tell me when you're
14 ready.
15 A. Okay.
16 MR. NICHOLAS: Before you
17 ask questions about this topic,
18 and just so I don't mess you up
19 more than -- more than necessary,
20 I'm going to just caution the
21 witness, if he's going to answer
22 questions about this, to the
23 extent that he's answering --
24 MR. PIFKO: I'll carefully

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1 ask my questions.
2 MR. NICHOLAS: No, no, no.
3 Just I want to make sure that he
4 doesn't answer anything that would
5 invade the attorney/client
6 communication and privilege thing.
7 MR. PIFKO: I understand.
8 MR. NICHOLAS: So and if
9 he's going to ask any questions at
10 all about stuff in this paragraph,
11 Mr. Hazewski, I just want to make
12 sure that you do not divulge any
13 communications with, between,
14 among, you and counsel. Okay?
15 THE WITNESS: Understood.
16 MR. CIULLO: Mark, could you
17 please read the Bates one more
18 time for me, please?
19 MR. PIFKO: Yeah. 0279037
20 is the first page. Do you need
21 the rest?
22 MR. CIULLO: Nope. That's
23 good. Thank you. It's just
24 coming through choppy a little bit

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1 on the phone.
2 MR. PIFKO: 0279037.
3 BY MR. PIFKO:
4 Q. I see that you were reading
5 the second page. You were e-mailing
6 Jason about discussions with a customer
7 account manager and discussions about
8 when the customer can next order the
9 quantity.
10 Do you see that?
11 A. Yes.
12 Q. What was that about?
13 A. I don't recall the
14 discussion specifically. I remember
15 there being discussions about customer
16 care personnel being able to field
17 questions from the customer as it relates
18 to their ordering, and I believe this was
19 at the outset of the switch from
20 calculating things on a monthly basis to
21 a rolling 30-day.
22 But beyond that, that's the
23 best of my recollection.
24 Q. Who is Jason? His signature

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1 not spending time on issues that
2 were of lesser consequence to us.
3 BY MR. PIFKO:
4 Q. Did you have any further
5 discussions about the issues reflected
6 here outside of counsel?
7 A. No, I have not.
8 Q. Outside of discussions with
9 counsel, do you know what the outcome of
10 these grand jury investigations were?
11 A. I do not know.
12 Q. Do you have any reason to
13 dispute the accuracy of what's said in
14 these statements?
15 MR. NICHOLAS: Well, I'll
16 object to the form of the question
17 and the foundation. No
18 foundation. Object to the form.
19 THE WITNESS: No, I don't.
20 BY MR. PIFKO:
21 Q. I'm handing you a document
22 that's previously marked as Exhibit 9 to
23 Chris Zimmerman's deposition. Have you
24 seen this document before?

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1 MR. NICHOLAS: Give him a
2 minute.
3 MR. PIFKO: For the record,
4 it's Bates labeled
5 ABDCMDL00273425.
6 THE WITNESS: No, it doesn't
7 look familiar to me.
8 BY MR. PIFKO:
9 Q. It's a lengthy document, and
10 of course you're permitted to look at it
11 as much as you need to. I just had a
12 quick question on Page 12.
13 There's a mention about Ed
14 and from the context it appears it's you.
15 I apologize if you feel that I'm prying
16 into something personal, but I -- it's
17 your deposition and I need to know what
18 they are discussing here.
19 So if you look in the bottom
20 of the first full paragraph there. It
21 says in red brackets, "Would note that Ed
22 has moved to a nondiversion control role
23 and who has taken over his job -
24 highlighting that Ed has moved on may

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1 help take away" -- "take any remaining
2 pressure off of them doing something
3 about Ed."
4 Do you see that?
5 A. I do.
6 Q. Were you involved with
7 discussions with leadership at the
8 company over some concerns about your
9 performance?
10 A. No.
11 Q. Do you know what this is
12 about?
13 A. Well, I know it's about me
14 moving from my role in the diversion
15 control unit to another assignment.
16 Q. Do you know why they moved
17 you out of the diversion control unit?
18 A. It was at my request.
19 Q. And why was that?
20 A. I just felt like I needed a
21 break from the duties I had been doing
22 for a number of years and needed a change
23 of scenery, if you will.
24 Q. It was a stressful job?

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1 A. It had its moments.
2 Q. You just wanted something
3 that wasn't so much a risk?
4 MR. NICHOLAS: Object to the
5 form.
6 THE WITNESS: Again, yeah, I
7 had just had enough of the -- the
8 same tasks and I just felt I
9 needed a change.
10 BY MR. PIFKO:
11 Q. Do you have any sense about
12 what is being mentioned here when it says
13 pressure and it's talking about doing
14 something about Ed?
15 MR. NICHOLAS: Object to the
16 form. Lack of foundation.
17 THE WITNESS: I don't know
18 what that's referring to, no.
19 BY MR. PIFKO:
20 Q. Did the company grant your
21 request to -- to change positions?
22 A. Yes, they did.
23 Q. Okay. Did you feel that you
24 had enough resources to do your job

<p style="text-align: right;">Page 234</p> <p>1 before you moved out of the diversion 2 control function? 3 A. I did feel we had enough 4 resources. 5 Q. Did you feel that you had 6 adequate support from the management to 7 do your job? 8 A. Definitely had support of 9 the management, yes. 10 Q. Did you ever complain to 11 anyone, aside from making a request to 12 move out of that position? 13 A. Complained to anyone, no. I 14 had -- it wasn't a matter of complaint. 15 As I said, it was just a matter of change 16 of scenery. 17 Q. Who did you make that 18 request to? 19 A. I believe I discussed it 20 with David May who would have been on 21 board at that point. 22 Q. Did -- did David May 23 essentially take over the role that you 24 had been in?</p>	<p style="text-align: right;">Page 236</p> <p>1 Q. Okay. Do you remember the 2 discussion reflected here? 3 A. I do not. 4 Q. Exhibit 15 has an e-mail 5 from you, dated November 8, 2013, to 6 Steve Mays. It says: "This is the 7 document I put together this week." 8 Then Steve forwards it to 9 Chris Zimmerman and copies you. And 10 says, "Chris, here is Ed's other list 11 that you asked for last week." 12 Do you see that? 13 A. I do. 14 Q. Okay. And it attaches a 15 document called Diversion Control 16 Program, a Word document. Do you see 17 that? 18 A. Yes. 19 Q. Okay. Do you know what this 20 diversion control program document is? 21 A. It appears to be an 22 explanation of the day-to-day functions 23 of someone assigned to the diversion 24 control team.</p>
<p style="text-align: right;">Page 235</p> <p>1 A. In addition to other roles, 2 but yes. 3 Q. When you say in addition to 4 other roles, you mean he had other roles 5 in addition to what you were doing? 6 A. Yes. 7 (Document marked for 8 identification as Exhibit 9 ABDC-Hazewski-15.) 10 (Document marked for 11 identification as Exhibit 12 ABDC-Hazewski-16.) 13 BY MR. PIFKO: 14 Q. I'm handing you what I've 15 marked as Exhibits 15 and 16. 16 For the record, 15 is a 17 one-page e-mail attaching Exhibit 16. 18 It's -- 15 is Bates labeled 19 ABDCMDL00279103, and 16 is 20 ABDCMDL00279104 through 106 -- or through 21 107. 22 Let me know when you're 23 ready to discuss these. 24 A. I've reviewed the document.</p>	<p style="text-align: right;">Page 237</p> <p>1 Q. Do you recall putting this 2 document together? 3 A. I do not recall putting it 4 together. 5 Q. The discussion about the 6 diversion control program here, do you 7 believe this is -- accurately describes 8 attributes of the program as of that 9 date? 10 A. Yes. 11 Q. It says on the first page of 12 Exhibit 16, "Diversion control" -- at the 13 top -- "control specialists review on 14 average 100 order lines daily each." 15 Do you see that? 16 A. I do. 17 Q. "Based on October 2013 18 data." 19 Do you see that? 20 A. Yes. 21 Q. Okay. Is that consistent 22 with your understanding of the volume 23 that a diversion control specialist would 24 review everyday at that time?</p>

<p style="text-align: right;">Page 238</p> <p>1 MR. NICHOLAS: Object to the 2 form. 3 THE WITNESS: I would have 4 researched that number prior to 5 putting it on a document. So I 6 would say it's accurate. 7 BY MR. PIFKO: 8 Q. Do you have any sense about 9 how many lines, order lines people 10 reviewed in years prior to that? 11 A. Not off the top of my head, 12 no. 13 Q. Do you remember it going up 14 or down over the years? 15 A. In my recollection it was 16 fairly constant. 17 Q. Okay. So you would 18 generally agree that it was around that 19 number over the time period when you were 20 in charge of the diversion control 21 function? 22 MR. NICHOLAS: Object to the 23 form, and foundation. 24 THE WITNESS: Yes.</p>	<p style="text-align: right;">Page 240</p> <p>1 researched before a final 2 determination -- determination was 3 made on an order. 4 BY MR. PIFKO: 5 Q. So it's the company's policy 6 that that was one of the things that they 7 were supposed to do when reviewing an 8 order? 9 A. Yes. 10 Q. I want to go to Item 6, 11 which is a few pages in on 12 ABDCMDL00279106. "Prescriber big report." 13 Do you see that? 14 A. I do. 15 Q. Do you know what that is? 16 A. My recollection it was a 17 listing of prescribing physicians that 18 may have displayed a disciplinary record 19 during the course of a due diligence 20 investigation. 21 Q. Let's go over some elements 22 of it. First of all, you agree that, 23 looking at the document, that these are 24 accurate descriptions of the company's</p>
<p style="text-align: right;">Page 239</p> <p>1 BY MR. PIFKO: 2 Q. The third bullet point says, 3 "Verify that a current (within the last 4 three years) CSRA Form 590 has been 5 completed and is on file." 6 Do you see that? 7 A. Yes. 8 Q. What does that mean? 9 A. Well, it means that we are 10 to verify that within the last three 11 years, a due diligence investigation had 12 been completed or the Form 590 which 13 is -- furthers that investigation on that 14 customer. 15 Q. For what -- in what context 16 were you doing this verification? 17 MR. NICHOLAS: Object to the 18 form. 19 THE WITNESS: Well, the 20 reference is that -- the order 21 review process. 22 So during the course of 23 reviewing an order, that's one of 24 the facets that would be</p>	<p style="text-align: right;">Page 241</p> <p>1 process and the prescriber big report? 2 MR. NICHOLAS: Object to the 3 form. Foundation. 4 THE WITNESS: Can I have a 5 minute to review it again? 6 BY MR. PIFKO: 7 Q. Yeah, of course. 8 A. I've reviewed it. 9 Q. Okay. Did you, as a person 10 who is running the diversion control 11 program, did you have involvement in 12 developing the prescriber big report? 13 A. I was aware that it was 14 being put together. I wouldn't say I was 15 involved in the making of the report. 16 Joe Tomkiewicz was given that task. 17 Q. Did you, on occasion, review 18 the report? 19 A. Yes, we routinely reviewed 20 all of the reports that we generated. 21 Q. Do you know when it was 22 developed and implemented? 23 A. I do not. 24 Q. It says -- the third bullet</p>

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1 point, "As part of our due diligence
2 process, we routinely request
3 de-identified prescribing data from our
4 pharmacy customers."
5 Do you see that?
6 A. Yes.
7 Q. True statement?
8 MR. NICHOLAS: Object to the
9 form and foundation.
10 THE WITNESS: I'm sorry.
11 What bullet was that again?
12 BY MR. PIFKO:
13 Q. Third bullet point. "As
14 part of our" --
15 A. Oh, okay. I don't know that
16 I would have used the word "routinely."
17 But it occurred, yes, that we would
18 request such information.
19 Q. During your due diligence
20 process?
21 A. Yes.
22 Q. That's for the reasons that
23 we previously discussed?
24 MR. NICHOLAS: Object to the

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1 form. It's been a long day.
2 THE WITNESS: Yes.
3 BY MR. PIFKO:
4 Q. Do you recall discussing
5 that before?
6 MR. NICHOLAS: Object to the
7 form.
8 THE WITNESS: I recall
9 discussing it in the context of
10 when we were looking at controlled
11 substance cocktails, three
12 products dispensed together, other
13 indicators of that sort.
14 BY MR. PIFKO:
15 Q. Well, let's just clarify.
16 Why would you request de-identified
17 prescribing data from your pharmacy
18 customers in connection with your due
19 diligence process?
20 A. If their ordering quantities
21 were, you know, significant, we wanted to
22 make certain that the products they were
23 dispensing were being done so in a
24 legitimate manner.

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1 Q. Where would you keep that
2 information when you received it?
3 A. The de-identified data?
4 Q. Yeah.
5 A. In the file.
6 Q. In the due diligence file?
7 A. Due diligence file.
8 Q. For the customer?
9 A. Correct.
10 Q. Are those maintained -- at
11 that time, were they maintained in
12 hardcopy or electronically? Do you know?
13 A. I don't -- no, I don't know.
14 Q. At any time, do you know how
15 they are maintained?
16 MR. NICHOLAS: Object to the
17 form.
18 THE WITNESS: The same forms
19 we're talking about?
20 BY MR. PIFKO:
21 Q. The due diligence files.
22 A. There was a time when we
23 switched from paper copies to electronic,
24 but I couldn't tell you the date of when

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1 that occurred.
2 Q. Okay. Was that fairly
3 recently or a long time ago?
4 A. A long time ago.
5 Q. A long time ago you switched
6 to electronic?
7 A. Yes.
8 Q. Okay. Two more bullet
9 points down, "The analysis identifies
10 prescribers that are writing
11 prescriptions of a questionable nature,
12 e.g., drug cocktails, IR narcotics minus
13 a long-acting opioid, and a high volume
14 of the same prescription for every
15 patient."
16 Do you see that?
17 A. Yes, I do.
18 Q. What does that mean?
19 MR. NICHOLAS: Object to the
20 form. Foundation.
21 THE WITNESS: What it means
22 is the analysis of the
23 de-identified data includes
24 looking for those particular

<p style="text-align: right;">Page 246</p> <p>1 points that you just read off. 2 BY MR. PIFKO: 3 Q. And why would you look at 4 those? 5 MR. NICHOLAS: Object to the 6 form. Object to the foundation. 7 THE WITNESS: We would look 8 at those, again, triggered by what 9 might perhaps be ordering that 10 causes us concern, or just again, 11 to verify that the products are 12 being dispensed in a legitimate 13 fashion for legitimate medical 14 purpose. 15 BY MR. PIFKO: 16 Q. "The analysis may also 17 identify unnamed patients that are doctor 18 shopping in addition to patients 19 traveling considerable distance to fill a 20 prescription." 21 Do you see that? 22 A. Yes. 23 Q. That's a true statement 24 about the analysis?</p>	<p style="text-align: right;">Page 248</p> <p>1 by the pharmacy in a legitimate 2 manner. 3 BY MR. PIFKO: 4 Q. Patients traveling 5 considerable distance to fill a 6 prescription, why is that a factor that 7 you would look at? 8 MR. NICHOLAS: Same 9 objections. Form, foundation, 10 context. 11 THE WITNESS: Well as we 12 discussed earlier. It's -- it's a 13 potential red flag. 14 BY MR. PIFKO: 15 Q. For diversion? 16 A. For potential diversion. 17 Q. Let's look at Item Number 7, 18 projects. What's the low volume account 19 project? 20 A. We routinely reviewed, as I 21 said a few minutes ago, reports that 22 would generate. One was a report which 23 indicated percentage of controls versus 24 noncontrols. We were trying to isolate</p>
<p style="text-align: right;">Page 247</p> <p>1 MR. NICHOLAS: Object to the 2 form. Object to the foundation. 3 THE WITNESS: It's a 4 component of the analysis, yes. 5 BY MR. PIFKO: 6 Q. People who are conducting 7 this analysis were under your management? 8 A. Yes. 9 Q. Why would they be conducting 10 that type of analysis? 11 A. As part of the due diligence 12 process. 13 Q. Why would they be looking at 14 whether a patient is doctor shopping? 15 MR. NICHOLAS: Object to the 16 form. Object to the foundation. 17 Lack of context. 18 Go ahead. 19 THE WITNESS: We want to 20 make certain the products that 21 we're dispensing -- or 22 distributing to our pharmacy 23 customers, once it leaves our 24 purview, that it's being dispensed</p>	<p style="text-align: right;">Page 249</p> <p>1 in the low volume project accounts that 2 were purchasing little -- little product, 3 and the product that they were was high 4 risk controlled substances. And it was a 5 pattern that we wanted to try to 6 eliminate. 7 Q. Why did you want to try to 8 eliminate that? 9 A. We didn't want to be 10 sourcing high risk controls to the 11 exclusion of all of the other maintenance 12 products that go along with it. 13 Q. And why is that? 14 A. We're not -- we're in the 15 business of being a primary wholesaler. 16 That business was not capturing what we 17 considered to be data that would indicate 18 them as a primary customer. 19 Q. When you talk about primary 20 and secondary, you mean that there's the 21 potential for that customer buying other 22 materials from another distributor and 23 then buying controls from you? 24 MR. NICHOLAS: Object to the</p>

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1 form.
2 But go ahead.
3 THE WITNESS: Yes.
4 BY MR. PIFKO:
5 Q. And that's not a practice
6 that you want to occur?
7 A. Correct.
8 Q. Third bullet point, "IMS
9 data pilot."
10 Do you see that?
11 A. I do.
12 Q. Do you know what that's
13 about?
14 A. I have little experience
15 with IMS data. But it's -- I don't know
16 how it would be explained in terms of how
17 the data is stored. But it was
18 information that was not available unless
19 you subscribed to purchasing IMS data,
20 and it could provide information that
21 wasn't readily available on other
22 sources.
23 Q. At some point, did
24 AmerisourceBergen subscribe to purchase

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1 IMS data?
2 A. My recollection is we did a
3 pilot project. I don't know if we ever
4 purchased the service.
5 Q. What did you intend to use
6 that data for? Do you know?
7 MR. NICHOLAS: Object to the
8 form.
9 THE WITNESS: Specifically I
10 don't know.
11 BY MR. PIFKO:
12 Q. Some aspect of monitoring
13 diversion?
14 MR. NICHOLAS: Object to the
15 form.
16 THE WITNESS: Some aspect of
17 monitoring information not
18 available through other sources.
19 BY MR. PIFKO:
20 Q. For purposes of your
21 diversion control function?
22 MR. NICHOLAS: Object to the
23 form.
24 THE WITNESS: It would have

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1 been a component of our diversion
2 control program.
3 BY MR. PIFKO:
4 Q. The last bullet point on
5 that Item Number 7, "Participation in
6 industry working group."
7 Do you see that?
8 A. Yes.
9 Q. What's that about?
10 A. I'd have to know what
11 specifically -- what specific industry
12 working group they are referring to. I
13 mean, we participated in several and took
14 advantage of chances to join other groups
15 as well.
16 Q. To be clear, when you say
17 they are referring to, this is, according
18 to the document, your -- your document.
19 A. Okay. Yes.
20 Q. Do you agree?
21 A. That it's a document that I
22 put together?
23 Q. Yeah.
24 A. Yes.

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1 Q. Okay. Are you familiar with
2 a New Jersey anti-diversion group?
3 A. Yeah. I believe it's the
4 same group that I referenced earlier in
5 the deposition.
6 Q. Okay. And that was with the
7 manufacturers?
8 A. Yes. That's the group I was
9 referring to.
10 Q. How about the Healthcare
11 Distribution Alliance industry working
12 group?
13 A. I didn't participate in
14 meetings of that group.
15 Q. Okay. Did you ever
16 participate in an HDA meeting?
17 A. HDA meeting? I believe I
18 attended some seminars sponsored by the
19 HDMA at the time.
20 Q. Did you ever serve as a
21 committee member on any of their
22 committees?
23 A. No.
24 Q. Did you participate in an

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1 industry working group with Mallinckrodt
2 concerning anti-diversion issues?

3 A. For a period of time, I did,
4 yes.

5 Q. What was that group?

6 A. That was a group organized
7 by Mallinckrodt of other -- well, I don't
8 recall if there were other manufacturers.
9 But representatives of other wholesale
10 distributors, to, again, just discuss
11 issues common to all of the participants,
12 brainstorm ways of trying to effectively
13 communicate with the government on these
14 issues and hopefully get them to
15 participate in helping at the -- that
16 level to work on again issues of mutual
17 concern.

18 Q. And when you say issues, do
19 you mean diversion control-related
20 issues?

21 MR. NICHOLAS: Object to the
22 form.

23 THE WITNESS: I wouldn't
24 limit it to that, no. But that

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1 was certainly discussed.

2 BY MR. PIFKO:

3 Q. What else did it include?

4 MR. NICHOLAS: Object to the
5 form.

6 THE WITNESS: I -- I can't
7 think of an example, other than
8 what I've testified to.

9 BY MR. PIFKO:

10 Q. Okay. But you know
11 diversion control was among the issues
12 discussed?

13 A. It was.

14 Q. Do you remember who else was
15 a member of that group besides
16 Mallinckrodt? You said other
17 distributors. How about -- I'll make it
18 easy. How about Cardinal Health?

19 A. I believe so, yes.

20 Q. How about McKesson?

21 MS. MONAGHAN: Objection to
22 form.

23 THE WITNESS: I believe so.

24 BY MR. PIFKO:

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1 Q. Any other distributors that
2 you can think of?

3 A. No, I can't.

4 (Document marked for
5 identification as Exhibit
6 ABDC-Hazewski-17.)
7 BY MR. PIFKO:

[REDACTED]

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[REDACTED]

Page 258

[REDACTED]

Page 260

[REDACTED]

Page 259

[REDACTED]

Page 261

[REDACTED]

7 MR. PIFKO: We'll take a
8 break, and then I think we'll be
9 close to concluding.
10 THE VIDEOGRAPHER: Going off
11 the record. The time is 3:35.
12 (Short break.)
13 THE VIDEOGRAPHER: Going
14 back on the record. Beginning
15 Media File Number 5. The time is
16 3:47.
17 (Document marked for
18 identification as Exhibit
19 ABDC-Hazewski-18.)
20 (Document marked for
21 identification as Exhibit
22 ABDC-Hazewski-19.)
23 (Document marked for
24 identification as Exhibit

<p style="text-align: right;">Page 262</p> <p>1 ABDC-Hazewski-20.)</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. I'm going to hand you</p> <p>4 documents that are marked 18, 19, and 20.</p> <p>5 Let the record reflect the</p> <p>6 witness is reviewing the documents.</p> <p>7 For the record, the</p> <p>8 documents -- Exhibit 18 is a one-page</p> <p>9 document Bates-labeled ABDCMDL00266845.</p> <p>10 19 is a document attached to</p> <p>11 that, Bates-labeled ABDCMDL00266846, and</p> <p>12 it ends 266859.</p> <p>13 And then Exhibit 20 is</p> <p>14 another document that's attached to</p> <p>15 Exhibit 18, which is ABDCMDL00266860 and</p> <p>16 61.</p> <p>17 For the record, Exhibit 18</p> <p>18 is a meeting request attaching the other</p> <p>19 two exhibits, dated September 2012 --</p> <p>20 September 17, 2012. And it's</p> <p>21 notification, Upcoming OMP Changes.</p> <p>22 Do you recall discussing OMP</p> <p>23 changes in the end of 2012?</p> <p>24 A. I was involved in</p>	<p style="text-align: right;">Page 264</p> <p>1 the rollout of the updated OMP?</p> <p>2 A. I do not have any</p> <p>3 recollection of my concerns.</p> <p>4 Q. If you go to Exhibit 20.</p> <p>5 Some additional discussion about the</p> <p>6 meeting. Who is Maureen Story?</p> <p>7 A. I don't know what her</p> <p>8 position is, I believe she is a vice</p> <p>9 president of something. But she worked</p> <p>10 with -- I believe in helping to put</p> <p>11 together customer facing documents and</p> <p>12 talking points concerning the changes to</p> <p>13 the OMP.</p> <p>14 Q. On the last page of</p> <p>15 Exhibit 20, Maureen writes to Chris</p> <p>16 Zimmerman, she says: "We want to be sure</p> <p>17 that either you or Steve are there since</p> <p>18 we will need guidance around what we</p> <p>19 can/cannot say to the customers."</p> <p>20 Do you see that?</p> <p>21 A. It's on the front page of</p> <p>22 that document?</p> <p>23 Q. On the last page at the top.</p> <p>24 A. Oh. Yes, I see that.</p>
<p style="text-align: right;">Page 263</p> <p>1 discussions concerning changes to OMP,</p> <p>2 yes.</p> <p>3 Q. That was when the company</p> <p>4 moved to the SAP, SAP system?</p> <p>5 A. I believe that's correct.</p> <p>6 Q. Exhibit 18 in the middle</p> <p>7 there, it talks about a proactive plan</p> <p>8 communicating to the sales team. Is this</p> <p>9 talking about communicating the rollout</p> <p>10 of this new program to the sales team?</p> <p>11 A. Correct.</p> <p>12 Q. It says, "Based on the</p> <p>13 concern expressed by Ed H., we will forgo</p> <p>14 any documentation updates until we have</p> <p>15 this call. I have attached the PDF that</p> <p>16 we developed back in January."</p> <p>17 Do you see that?</p> <p>18 A. I do.</p> <p>19 Q. Do you recall what your</p> <p>20 concerns were that discussed in this</p> <p>21 meeting?</p> <p>22 A. I do not.</p> <p>23 Q. Do you recall having</p> <p>24 concerns about the communications about</p>	<p style="text-align: right;">Page 265</p> <p>1 Q. Okay. Does this refresh</p> <p>2 your recollection about having</p> <p>3 discussions about what you could or</p> <p>4 couldn't say about the new program to</p> <p>5 customers?</p> <p>6 A. I think the concern was of</p> <p>7 Maureen, and not us.</p> <p>8 Q. Well, we --</p> <p>9 A. She wanted to be -- just be</p> <p>10 careful in terms of what could be said</p> <p>11 and not said.</p> <p>12 Q. You write at the top of</p> <p>13 Exhibit 20, "Maureen, need to discuss. I</p> <p>14 will be out of the office tomorrow, but</p> <p>15 back in on Monday."</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. On September 13, 2012.</p> <p>19 Do you remember discussing</p> <p>20 any of this with her?</p> <p>21 A. No, I don't.</p> <p>22 Q. Do you remember giving her</p> <p>23 feedback about what could be said to</p> <p>24 customers?</p>

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1 A. I do not.
2 Q. If you turn to Exhibit 19,
3 Page 5, which is ABDCMDL 266850. Let me
4 know when you're there.
5 A. I'm there.
6 Q. Okay. So among other
7 things, Exhibit 19 is talking about
8 attributes of the new program. And it
9 has frequently asked questions on here.
10 Do you agree?
11 A. Yes.
12 Q. Okay. Item 2 on Page 5 here
13 says that before the SAP system -- well,
14 first of all, okay.
15 Is it correct that in
16 AmerisourceBergen's system, you can have
17 multiple accounts with the same DEA
18 registration number? If you look at
19 Item 2 here.
20 A. In the system at the time,
21 you're referring to?
22 Q. Yeah.
23 A. You could have multiple
24 accounts that had one DEA registration,

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1 yes.
2 Q. And it says, "Under the
3 pre-SAP system, every account would have
4 their own threshold." Agree? True
5 statement?
6 MR. NICHOLAS: Object to the
7 form. True statement that that's
8 what it says?
9 BY MR. PIFKO:
10 Q. That's an accurate statement
11 about the pre-SAP system.
12 A. Each account number had
13 their own threshold, correct.
14 Q. And after the SAP system was
15 implemented, thresholds were then based
16 on a -- you'd have one threshold for
17 every registration number. Is that
18 correct?
19 A. For every DEA registration,
20 correct.
21 Q. Why was that change made, do
22 you know?
23 A. I don't know the specific
24 rationale behind it, no.

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1 Q. Did you ever discuss that
2 aspect of the change with anyone?
3 A. I don't recall personally
4 discussing it with anyone, no.
5 Q. Do you believe there were
6 any concerns about having multiple
7 accounts with the same DEA registration
8 that each had their own threshold?
9 MR. NICHOLAS: Object to the
10 form.
11 THE WITNESS: No, I had no
12 concerns.
13 BY MR. PIFKO:
14 Q. Do you believe that the
15 review process conducted by distribution
16 center associates of an order flagged for
17 review was arbitrary at times?
18 MR. NICHOLAS: Object to the
19 form.
20 THE WITNESS: I don't
21 understand what you mean by
22 arbitrary sometimes.
23 BY MR. PIFKO:
24 Q. That there wasn't a clear

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1 directive about what distribution center
2 associates were supposed to do when
3 making a decision about whether to fill
4 or reject or send an order up to further
5 review?
6 A. No. I believe they had
7 adequate training and performed their
8 tasks as best as possible.
9 Q. Well, let's go to Page 7,
10 ABDCMDL00266852.
11 Do you see there's a -- top
12 third of the page -- section that says
13 "Bottom Line"?
14 A. Yes.
15 Q. It says, "Historically, each
16 distribution center had the ability to
17 review held orders and apply their best
18 judgment in releasing individual orders.
19 Most sales associates have had accounts
20 exceed their thresholds at some point;
21 however, the distribution center had the
22 ability to 'make the call' after
23 conducting their review which led
24 customer" -- "led to customers receiving

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1 their orders."
2 Do you see that?
3 A. Yes.
4 Q. "As we deploy SAP to our
5 distribution centers, the order
6 monitoring program management process
7 becomes more systemic and less arbitrary.
8 This is by design."
9 Do you see that?
10 A. Yes.
11 Q. Do you agree that prior to
12 implementing the SAP system there was a
13 degree of arbitrariness with respect to
14 each distribution center associate's
15 decisionmaking process for releasing an
16 order?
17 MR. NICHOLAS: Object to the
18 form.
19 THE WITNESS: No, I don't
20 agree and I don't think that
21 statement is suggesting that the
22 pre-SAP system was in any way
23 inadequate.
24 BY MR. PIFKO:

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1 Q. Do you know why they wanted
2 to make that change?
3 A. No, I do not know.
4 Q. When it says make the call
5 in the context of that discussion, do you
6 have an understanding about what that
7 means?
8 A. Whether to approve or
9 disapprove an order, I would take it to
10 mean.
11 Q. Did distribution center
12 associates have to document their reasons
13 for approving or disapproving an order
14 when they performed that function?
15 A. In the same manner as anyone
16 else reviewing orders, yes.
17 Q. How -- what do you mean by
18 that?
19 A. We discussed previously I
20 believe a notes section within the
21 structure of the computer system where
22 notes would be entered, and that held
23 true with the distribution centers as
24 well.

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1 Q. And they were supposed to
2 put notes in when they would make a
3 decision about whether to release an
4 order that was over threshold?
5 A. They would be -- they were
6 expected to enter notes as to the final
7 disposition of the order.
8 Q. Where would those notes be
9 maintained?
10 MR. NICHOLAS: Object to the
11 form.
12 THE WITNESS: Within the
13 computer system that we're
14 referring to.
15 MR. PIFKO: All right. I
16 don't have any further questions,
17 unless your counsel has some
18 direct examination of you.
19 MR. NICHOLAS: I have no
20 questions.
21 THE VIDEOGRAPHER: All
22 right. This concludes today's
23 deposition. We are going off the
24 record. The time 4:01.

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1 (Excused.)
2 (Deposition concluded at
3 approximately 4:01 p.m.)
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